

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

IN RE: NATIONAL : MDL NO. 2804  
PRESCRIPTION OPIATE :  
LITIGATION :  
:

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THIS DOCUMENT RELATES TO : CASE NO.  
ALL CASES : 1:17-MD-2804  
:  
: Hon. Dan A.  
: Polster

- - -

January 31, 2019

- - -

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
CONFIDENTIALITY REVIEW

Videotaped deposition of JANET  
GETZEY HART taken pursuant to notice, was held at  
the law offices of Morgan, Lewis & Bockius LLP,  
1701 Market Street, Philadelphia, Pennsylvania,  
beginning at 9:38 a.m., on the above date, before  
Ann Marie Mitchell, a Federally Approved  
Certified Realtime Reporter, Registered Diplomat  
Reporter, Registered Merit Reporter and Notary  
Public.

- - -

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By Mr. Pifko 11, 285  
By Ms. McEnroe 274

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NO.	DESCRIPTION	PAGE
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Hart- 30(b)(6)- 2	First Notice of Deposition Pursuant to Rule 30(B)(6) and Document Request Pursuant to Rule 30(B)(2) and Rule 34 to Defendant Rite Aid of Maryland, Inc., d/b/a Rite Aid and Mid-Atlantic Customer Support Center, Inc.	18
Hart- 30(b)(6)- 3	Email chain, top one dated 2010-11-24, Bates stamped	41

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Hart- 30(b)(6)- 4	Index of Binder	113
Hart- 30(b)(6)- 5	Email chain, top one dated 16 Sep 2011, Bates stamped MCKMDL00632923 through MCKMDL00632925	135
Hart- 30(b)(6)- 6	Email dated 2011-02-01, Bates stamped Rite Aid OMDL_0013134 through Rite Aid OMDL_0013136	175
Hart- 30(b)(6)- 7	Press Release entitled "Akron Doctor Pleads Guilty to Illegally Prescribing Painkillers, Indictment, Case No.: 5:14CR096"	179
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Hart- 30(b)(6)- 12	Project Initiation for 504 Suspicious Order Monitoring, Bates stamped Rite Aid OMDL_0040184 through Rite Aid OMDL_0040198	221

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Hart- 30(b)(6)- 13	Email chain, top one dated 2013-08-07, Bates stamped Rite Aid OMDL_0024599 and Rite Aid OMDL_0024600	224
Hart- 30(b)(6)- 14	Handwritten notes, 11/23/10, Bates stamped Rite Aid OMDL_0046066	277
Hart- 30(b)(6)- 15	PowerPoint slides, Bates stamped Rite Aid OMDL_0046067 through Rite Aid OMDL_0046072	278
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Hart- 30(b)(6)- 17	Handwritten notes, 12/14/10, Bates stamped Rite Aid OMDL_0046065	280
Hart- 30(b)(6)- 18	Email dated 2011-01-21, Bates stamped Rite Aid OMDL_0020541 and Rite Aid OMDL_0020542	282

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Direction to Witness Not to Answer

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Request for Production of Documents

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Stipulations  
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Question Marked  
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<p style="text-align: right;">Page 10</p> <p>1 THE VIDEOGRAPHER: We're now on  2 the record. My name is David Lane,  3 videographer from Golkow Litigation  4 Services. Today's date is January 31,  5 2019. Our time is 9:38 a.m. This  6 deposition is taking place in  7 Philadelphia, Pennsylvania in the matter  8 of National Opiate Litigation, MDL.  9 Our deponent today is Janet  10 Getzey Hart. Counsel will be noted on  11 the stenographic record. Our court  12 reporter is Ann Marie Mitchell.  13 Ms. Hart, I just want to remind  14 you, you're still under oath.  15 MR. PIFKO: Can we get people on  16 the phone to just state their name and  17 firm and who they represent real quick?  18 MS. LIABO: Hi, this is Miriam  19 Liabo from Jones Day on behalf of  20 Walmart.  21 MS. McENROE: Anybody else?  22 MS. WATSON: This is Sylvia  23 Watson from Jackson Kelly on behalf of  24 AmeriSource Bergen.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. So you understand that you're  2 still under oath? Do you understand that?  3 A. Yes.  4 Q. Okay. Yes? Sorry, I spoke over  5 you.  6 A. Yes, yes.  7 Q. And we'll fast forward through a  8 bunch of the ground rules. I know we covered  9 that yesterday and had your deposition taken.  10 So you understand that your  11 testimony here today is under penalty of perjury.  12 Correct?  13 MS. McENROE: Objection to form.  14 THE WITNESS: I do.  15 BY MR. PIFKO:  16 Q. And you understand that if you're  17 untruthful or intentionally dishonest in some  18 way, that you could be subject to criminal  19 penalties or civil penalties or some other sort  20 of punishment from the court.  21 Do you understand that?  22 MS. McENROE: Objection to form.  23 THE WITNESS: I do.  24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 11</p> <p>1 MR. PIFKO: Anyone else?  2 MR. MALOY: This is John Maloy  3 from Morgan Lewis on behalf of Rite Aid.  4 MR. PIFKO: Anyone else?  5 - - -  6 JANET GETZEY HART, after having  7 been previously duly sworn, continued to  8 be examined and testified as follows:  9 - - -  10 EXAMINATION  11 - - -  12 BY MR. PIFKO:  13 Q. All right. Now that we got that  14 out of the way.  15 My name is Mark Pifko. We kind  16 of met yesterday a little bit. I'm going to be  17 asking you some questions today. I represent the  18 plaintiffs in the litigation.  19 MR. PIFKO: So -- was she  20 administered the oath?  21 THE REPORTER: She's still under  22 oath from yesterday.  23 MR. PIFKO: Okay.  24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Is there any reason why you can't  2 provide truthful and accurate testimony today?  3 A. There is not.  4 Q. Do you have any medical  5 condition, are you taking any medication or  6 undergoing any sort of treatment that would  7 impact your ability to tell the truth?  8 A. No.  9 Q. Are you taking any medication or  10 suffering from any condition that would impact  11 your memory?  12 A. No.  13 Q. From time to time, I'm obviously  14 going to be asking you, as you know from  15 yesterday, about past events. Okay? And I don't  16 want you to guess, but I do -- I am entitled to  17 your best recollection of events. Okay?  18 A. Yes.  19 Q. Okay. You intend to provide that  20 today?  21 A. I do.  22 Q. All right. So one other thing  23 that's different today, we'll get into it in just  24 a moment, as opposed to yesterday, is that</p>

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1 today's deposition, you are providing testimony  
2 on behalf of the company.  
3 Do you understand that?  
4 A. I do.  
5 Q. Okay. So when I ask you  
6 questions -- I'm going to hand you a notice in a  
7 minute and there's some topics.  
8 When I ask you questions within  
9 those topics, you're going to be providing  
10 testimony on behalf of the company, not just you.  
11 Do you understand that?  
12 A. I do.  
13 Q. All right. Let's start by  
14 handing you that document. I'm sure that you saw  
15 it in preparing for today's deposition.  
16 - - -  
17 (Deposition Exhibit No.  
18 Hart-30(b)(6)-1, Second Notice of  
19 Deposition Pursuant to Rule 30(B)(6) and  
20 Document Request Pursuant to Rule  
21 30(B)(2) and Rule 34 to Defendant Rite  
22 Aid of Maryland, Inc., d/b/a Rite Aid and  
23 Mid-Atlantic Customer Support Center,  
24 Inc., was marked for identification.)

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1 - - -  
2 BY MR. PIFKO:  
3 Q. I'm handing you what's marked as  
4 Hart-30(b)(6) Exhibit 1, which is a copy of a  
5 deposition notice.  
6 Have you seen this before? Take  
7 a minute to look at it.  
8 MS. McENROE: Mark, if it would  
9 help, I'm happy to stipulate to which  
10 topics from the second notice --  
11 MR. PIFKO: Yeah, I'm going to  
12 ask her. I have got your letter in front  
13 of me.  
14 MS. McENROE: Great. Thank you.  
15 THE WITNESS: I'm fine.  
16 BY MR. PIFKO:  
17 Q. All right. Have you seen this  
18 before?  
19 A. I have.  
20 Q. When was the last time you saw  
21 this?  
22 A. Within the past few days.  
23 Q. Okay. When was the first time  
24 you recall seeing this?

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1 A. Months ago.  
2 Q. Sometime in the third quarter of  
3 last year?  
4 A. Seems familiar, yes.  
5 Q. So you see if you -- there's  
6 numbered pages on the bottom.  
7 If you turn to the page that's  
8 numbered 6, it's got "Subject Matters for  
9 Testimony," letters A through O.  
10 Do you see that?  
11 MS. McENROE: I think you may be  
12 looking at notice 1 and you may have  
13 handed us notice 2. That may be what's  
14 going on.  
15 The second notice is the one that  
16 you handed us.  
17 MR. PIFKO: That's Will's fault.  
18 We can hand her both of them.  
19 I'll ask you some questions about that.  
20 I'll hand you notice 1 in just a  
21 minute. Thanks for clarifying.  
22 BY MR. PIFKO:  
23 Q. So with respect to notice 2, you  
24 see that there's topics that start on -- well,

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1 they do the same thing. They start on page 6  
2 here.  
3 Do you see that?  
4 A. I do.  
5 Q. Okay. And they go through page  
6 11.  
7 Do you see that?  
8 A. I do.  
9 Q. So looking at this -- this is  
10 called the second notice.  
11 Do you understand yourself to be  
12 designated for topics 6, 12, 17, 18, 20, 21 and  
13 22?  
14 A. 6, 12 -- what were the other  
15 numbers?  
16 Q. 17, 18, 20, 21 and 22.  
17 MS. McENROE: Just preserving for  
18 the record that 20, 21 and 22 are as  
19 modified by a ruling from Special Master  
20 Cohen.  
21 THE WITNESS: I do.  
22 BY MR. PIFKO:  
23 Q. Is there any reason why you can't  
24 provide testimony on those topics today?



<p style="text-align: right;">Page 18</p> <p>1 A. There is not.</p> <p>2 Q. Let's look at the first notice.</p> <p>3 - - -</p> <p>4 (Deposition Exhibit No.</p> <p>5 Hart-30(b)(6)-2, First Notice of</p> <p>6 Deposition Pursuant to Rule 30(B)(6) and</p> <p>7 Document Request Pursuant to Rule</p> <p>8 30(B)(2) and Rule 34 to Defendant Rite</p> <p>9 Aid of Maryland, Inc., d/b/a Rite Aid and</p> <p>10 Mid-Atlantic Customer Support Center,</p> <p>11 Inc., was marked for identification.)</p> <p>12 - - -</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Which is marked as Exhibit 2.</p> <p>15 Take a moment to review that and</p> <p>16 let me know when you're done.</p> <p>17 A. (Reviewing document.)</p> <p>18 Okay.</p> <p>19 Q. Have you seen Exhibit 2 before?</p> <p>20 A. I have.</p> <p>21 Q. When was the last time you saw</p> <p>22 Exhibit 2?</p> <p>23 A. Within the past few days.</p> <p>24 Q. When was the first time you</p>	<p style="text-align: right;">Page 20</p> <p>1 would have been around a few months ago, like the</p> <p>2 other notice, roughly?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. If you turn to page 6 of</p> <p>5 Exhibit 2, you see there's a bunch of letter</p> <p>6 topics that goes from page 6 to page 7.</p> <p>7 Are you there?</p> <p>8 A. I am.</p> <p>9 Q. Do you understand yourself to be</p> <p>10 designated to speak on behalf of the company with</p> <p>11 respect to topics A through N?</p> <p>12 Take a minute to look at them.</p> <p>13 A. I do.</p> <p>14 Q. Is there any reason why you can't</p> <p>15 provide testimony on behalf of the company with</p> <p>16 respect to topics A through N in Exhibit 2?</p> <p>17 A. There is not.</p> <p>18 Q. Do you know what diversion is?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: I do.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. What's your understanding of what</p> <p>23 diversion is?</p> <p>24 A. Diversion is any time that a</p>
<p style="text-align: right;">Page 19</p> <p>1 believe you saw Exhibit 2?</p> <p>2 A. I don't remember when I first saw</p> <p>3 it.</p> <p>4 Q. Do you believe it would have been</p> <p>5 on or around the same time you saw Exhibit 1?</p> <p>6 A. A little after. Oh, this one</p> <p>7 here is Exhibit 1 that we're talking about now?</p> <p>8 Q. I'm asking about Exhibit 2.</p> <p>9 A. Okay. Exhibit 2 is the first</p> <p>10 notice, though. Right?</p> <p>11 Q. Right.</p> <p>12 A. So I would have saw the first</p> <p>13 notice before the second notice.</p> <p>14 Q. Okay. That's your recollection,</p> <p>15 is that you saw the first one before you saw the</p> <p>16 second one?</p> <p>17 A. I believe so.</p> <p>18 Q. Just so you know, they're dated</p> <p>19 the same day.</p> <p>20 Does that refresh your</p> <p>21 recollection at all about when you saw them?</p> <p>22 A. It does not.</p> <p>23 Q. Okay. All right. Well, you see</p> <p>24 on page 6 -- well, so you believe, though, it</p>	<p style="text-align: right;">Page 21</p> <p>1 controlled substance gets out of the normal</p> <p>2 channel of controlled substance delivery to a</p> <p>3 patient, not to the patient based upon a valid</p> <p>4 medical intent.</p> <p>5 Q. Do you understand that Rite Aid</p> <p>6 has a duty to prevent diversion?</p> <p>7 MS. McENROE: Objection, calls</p> <p>8 for a legal conclusion.</p> <p>9 THE WITNESS: I do.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Do you understand that during</p> <p>12 certain relevant time periods to this case, Rite</p> <p>13 Aid was a, what's called a distributor under the</p> <p>14 Controlled Substances Act?</p> <p>15 A. I do.</p> <p>16 Q. What's your understanding of how</p> <p>17 Rite Aid fit into a definition of a distributor</p> <p>18 under the Controlled Substances Act?</p> <p>19 MS. McENROE: Objection to form.</p> <p>20 THE WITNESS: Rite Aid</p> <p>21 distributed its Schedule III, IV and V</p> <p>22 controlled substances to our various Rite</p> <p>23 Aid locations.</p> <p>24 BY MR. PIFKO:</p>

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1 Q. And Rite Aid purchased those  
2 products directly from manufacturers?  
3 A. I believe so, yes.  
4 Q. And then warehoused them and  
5 ultimately shipped them to its stores?  
6 A. That is correct.  
7 Q. And so you understand as a  
8 distributor that Rite Aid had a duty to prevent  
9 diversion. Correct?  
10 MS. McENROE: Objection to form.  
11 THE WITNESS: I do.  
12 BY MR. PIFKO:  
13 Q. And do you also have an  
14 understanding that Rite Aid had a duty to  
15 identify, report and halt the shipment of  
16 suspicious orders?  
17 MS. McENROE: Objection to form.  
18 THE WITNESS: I do.  
19 BY MR. PIFKO:  
20 Q. Okay. And do you know what a  
21 suspicious order is?  
22 A. I do.  
23 Q. What is a suspicious order?  
24 A. A suspicious order is an unusual

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1 frequency, an unusual pattern, orders of that  
2 nature.  
3 Q. Bear with me a second here.  
4 Do you understand the purpose for  
5 which Rite Aid, as a registrant under the  
6 Controlled Substances Act, has a duty to prevent  
7 diversion?  
8 MS. McENROE: Objection to form.  
9 THE WITNESS: I do.  
10 BY MR. PIFKO:  
11 Q. What's your understanding of what  
12 that purpose is?  
13 A. Our purpose is to make sure the  
14 controlled substances are kept in the normal  
15 channel of distribution and dispensing to the end  
16 patient, make sure that it does not end in the  
17 hands of any other one that's not in that  
18 distribution channel.  
19 Q. Do you understand that one of the  
20 purposes of preventing diversion is to protect  
21 the public health?  
22 MS. McENROE: Objection to form.  
23 THE WITNESS: I do.  
24 BY MR. PIFKO:

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1 Q. And is that consistent with Rite  
2 Aid's understanding of why we want to prevent  
3 diversion?  
4 A. It is.  
5 Q. I believe -- I was just looking  
6 for it, but I couldn't find it, but I believe  
7 that's in one of Rite Aid's policy documents.  
8 Do you recall seeing that?  
9 A. I do.  
10 Q. So you agree that that's a stated  
11 policy of Rite Aid, is that they want to prevent  
12 diversion because they want to protect the public  
13 health. Correct?  
14 MS. McENROE: Objection to form.  
15 THE WITNESS: I'm not sure if  
16 it's part of a policy or a statement or  
17 whatever, but yes.  
18 BY MR. PIFKO:  
19 Q. All right. You understand that  
20 Rite Aid has a duty to -- we talked earlier, to  
21 identify, report and halt the shipment of any  
22 suspicious orders that it may find in its system.  
23 Correct?  
24 MS. McENROE: Objection to form.

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1 THE WITNESS: I do.  
2 BY MR. PIFKO:  
3 Q. And did you also understand that  
4 Rite Aid has a duty to design a system to  
5 identify suspicious orders. Correct?  
6 MS. McENROE: Objection to form.  
7 And Mark, this is pretty heavily on the  
8 legal interpretation end, from which  
9 Special Master Cohen specifically ruled  
10 the topics do not cover, despite how  
11 they're drafted. So I just wanted to  
12 make sure that we don't go too far down  
13 that road.  
14 THE WITNESS: Could you repeat  
15 the question?  
16 BY MR. PIFKO:  
17 Q. Yeah.  
18 I was just asking, you understand  
19 that Rite Aid has a duty to design and maintain a  
20 system to identify and report suspicious orders.  
21 Correct?  
22 MS. McENROE: Objection to form.  
23 THE WITNESS: I do.  
24 BY MR. PIFKO:

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1 Q. Did Rite Aid have such a system?

2 A. We did.

3 Q. When did Rite Aid first design a

4 system to identify and report and halt the

5 shipment of suspicious orders?

6 A. I came into the Rite Aid

7 corporate office in 1995. And at that point

8 there was a program to report suspicious orders.

9 Q. How about a program to identify

10 suspicious orders?

11 A. I think same time.

12 Q. Do you know anything about who

13 designed the system that you're describing to

14 identify and report suspicious orders?

15 A. I do not.

16 Q. Okay. But it's your testimony

17 that that system was in place in 1995?

18 A. Yes.

19 Q. Were there any changes to that

20 system? You've been employed by, we discussed

21 yesterday, by Rite Aid since the '80s; is that

22 correct?

23 MS. McENROE: Objection to form.

24 THE WITNESS: Yes.

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1 MS. McENROE: It's okay. Give me

2 time to get my objections in.

3 BY MR. PIFKO:

4 Q. So you're familiar with Rite

5 Aid's policies and procedures with respect to

6 suspicious orders and preventing diversion.

7 Correct?

8 A. Yes.

9 Q. And are you familiar with whether

10 there are any changes to Rite Aid's system to

11 identify and report suspicious orders from 1995

12 to present?

13 A. I believe that the system itself

14 has been in place. There has been minor changes

15 or tweaks along the way, but the basics of the

16 system have remained the same.

17 Q. To your knowledge, has Rite Aid

18 ever identified a suspicious order?

19 A. We have not.

20 Q. Do you believe that there's never

21 been a suspicious order that's occurred within

22 Rite Aid's distribution system?

23 MS. McENROE: Objection to form.

24 THE WITNESS: Could you repeat

Page 28

1 the question?

2 BY MR. PIFKO:

3 Q. Yeah.

4 Do you believe that there's never

5 been a suspicious order that has occurred within

6 Rite Aid's distribution center -- system?

7 MS. McENROE: Objection to form.

8 THE WITNESS: I do.

9 BY MR. PIFKO:

10 Q. So it's your testimony that

11 there's never been a suspicious order that's

12 occurred within Rite Aid's distribution of

13 Schedule III controlled substances?

14 MS. McENROE: Objection to form.

15 THE WITNESS: I do.

16 BY MR. PIFKO:

17 Q. Are you familiar with the

18 scheduling of controlled substances?

19 A. I am.

20 Q. Are you aware of -- that there's

21 Schedule I through VI?

22 A. Schedule I through V.

23 Q. I'm sorry, I through V, yes.

24 A. Yes.

Page 29

1 Q. Okay. Keeping you on your toes.

2 Do you have an understanding

3 about what the differences are as you move along

4 the schedules?

5 A. I do.

6 MS. McENROE: Objection to form.

7 BY MR. PIFKO:

8 Q. From I to V?

9 MS. McENROE: Objection to form.

10 THE WITNESS: I do.

11 BY MR. PIFKO:

12 Q. What is your understanding of the

13 difference between a Schedule I controlled

14 substance and a Schedule V controlled substance?

15 MS. McENROE: Just real quick, I

16 want to make sure I understand.

17 Which topic is this part of?

18 MR. PIFKO: I'm asking the

19 questions. I don't need to identify the

20 topics.

21 MS. McENROE: I understand. So

22 you're asking topics from a 30(b)(6)

23 witness designated for specific

24 testimony.



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1 MR. PIFKO: You can object to  
2 scope, but I'm going to ask the  
3 questions.  
4 MS. McENROE: I can object to  
5 scope. I'm just trying to understand  
6 where you're going with this, so --  
7 MR. PIFKO: I'm asking her  
8 questions.  
9 MS. McENROE: -- if you're just  
10 laying the basis for something in scope,  
11 then that's fine, Mark. But I just want  
12 to make sure that we're not going to  
13 spend all day, she's a talented  
14 pharmacist with a lot of experience,  
15 getting every dot of the Controlled  
16 Substances Act, make sure that we're  
17 staying within the nature of the topics.  
18 So that all being said, I will  
19 say objection to scope.  
20 BY MR. PIFKO:  
21 Q. All right. So let's go back to  
22 my question.  
23 Do you understand the difference  
24 between a Schedule I substance and a Schedule V

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1 substance?  
2 MS. McENROE: Objection to form.  
3 THE WITNESS: I do.  
4 BY MR. PIFKO:  
5 Q. What is your understanding of the  
6 difference between those substances, as you move  
7 through the scale?  
8 A. Schedule I has an abusive -- has  
9 the most abusive properties. They are typically  
10 the illicit drugs. Schedule V is the least  
11 addictive, and they are the products that may be  
12 able to be sold over the counter.  
13 Q. And so as you moved down the  
14 scale, there's -- all these substances have been  
15 identified by the government as having a  
16 potential for abuse. Correct?  
17 MS. McENROE: Objection to form.  
18 THE WITNESS: Abuse, addiction,  
19 yes.  
20 BY MR. PIFKO:  
21 Q. And as you move down the scale,  
22 there's a lower potential for abuse and  
23 addiction; is that correct?  
24 A. As you go to Schedule V, there is

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1 less potential for that, yes.  
2 Q. And Rite Aid was a distributor of  
3 Schedule III controlled substances. Correct?  
4 MS. McENROE: Objection to form.  
5 THE WITNESS: We were.  
6 BY MR. PIFKO:  
7 Q. But you also sold Schedule II  
8 controlled substances. Correct?  
9 MS. McENROE: Objection to form.  
10 I just want to make sure we are  
11 clear in which "you" we are using here.  
12 So she is here testifying as a 30(b)(6)  
13 witness for Rite Aid Maryland, Inc.,  
14 doing business as Mid-Atlantic Customer  
15 Support Center, which is the Perryman  
16 Distribution Center. So I just want to  
17 make sure the witness is not going to be  
18 getting confused or misled that it's her  
19 personally or the Rite Aid family of  
20 companies.  
21 BY MR. PIFKO:  
22 Q. You understand that Rite Aid  
23 Corporation operates pharmacies, correct, through  
24 its various subsidiaries?

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1 A. I do.  
2 Q. And those pharmacies sell  
3 Schedule II substances. Correct?  
4 A. Those pharmacies dispense  
5 Schedule II controlled substances.  
6 Q. And they also sell Schedule III  
7 substances. Correct?  
8 A. Yes.  
9 Q. So we talked about the system for  
10 identifying, reporting and halting the shipments  
11 of suspicious orders.  
12 You said that there was a system  
13 in place in 1995. Correct?  
14 A. Yes.  
15 Q. And then I asked you if there  
16 were changes over the years. And you said there  
17 might have been some little changes, but the  
18 basic functions of the system have been the same;  
19 is that correct?  
20 A. That is correct.  
21 Q. All right. So can you tell me  
22 what are the basic functions or features of the  
23 Rite Aid system to identify, report and halt the  
24 shipment of suspicious orders?

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1 MS. McENROE: Objection to form.  
 2 THE WITNESS: I can.  
 3 BY MR. PIFKO:  
 4 Q. All right. Let's start with the  
 5 first element of Rite Aid's system.  
 6 And let's talk about what was in  
 7 place in 1995, and then we'll move through and  
 8 talk about any potential changes. Okay?  
 9 MS. McENROE: Objection in terms  
 10 of scope of the time period. Discovery  
 11 starts in this case in 2006 for the  
 12 relevant purposes. So I know the witness  
 13 said that she started in this role in  
 14 1995, but I just want to make sure we  
 15 don't end up spending all day on portions  
 16 of discovery that are not even within  
 17 scope.  
 18 BY MR. PIFKO:  
 19 Q. Do you recall my question?  
 20 A. Please repeat it.  
 21 Q. All right.  
 22 MR. PIFKO: Do you recall Special  
 23 Master Cohen ordered objections to stay  
 24 under 10 seconds, so let's try to

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1 remember that rule.  
 2 MS. McENROE: I talk real fast.  
 3 I think it was under 10 seconds.  
 4 MR. PIFKO: All right.  
 5 BY MR. PIFKO:  
 6 Q. What I asked you was to identify  
 7 the features of Rite Aid's system to identify,  
 8 report and halt the shipment of suspicious  
 9 orders. Okay?  
 10 A. Okay.  
 11 Q. And what we talked about is you  
 12 said you're familiar with the system that was in  
 13 place from 1995 until present. Correct?  
 14 A. Correct.  
 15 Q. Okay. And so what I want you to  
 16 do is start with the features of the system that  
 17 you're familiar with from the earliest time frame  
 18 from which you're familiar, which you said was  
 19 1995. Correct?  
 20 A. Correct.  
 21 Q. And then we'll go through various  
 22 changes that may have occurred over the years.  
 23 So let's start in 1995, what's  
 24 the first step in Rite Aid's system to identify,

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1 report and halt the shipment of suspicious  
 2 orders?  
 3 MS. McENROE: Objection to form.  
 4 Yeah. We're here giving 30(b)(6)  
 5 testimony on behalf of the distribution  
 6 center that I mentioned earlier. You  
 7 know, in terms of -- that distribution  
 8 center wasn't even in existence in 1997,  
 9 Mark. So I'm worried that we're really  
 10 going far afield here on a number of  
 11 different avenues.  
 12 BY MR. PIFKO:  
 13 Q. Can you answer the question?  
 14 MS. McENROE: Objection on  
 15 multiple grounds.  
 16 THE WITNESS: I can.  
 17 BY MR. PIFKO:  
 18 Q. Okay. So let's start.  
 19 What was the first feature of the  
 20 system?  
 21 A. The Rite Aid suspicious order  
 22 monitoring program had various features to it.  
 23 One of the features was a threshold quantity of  
 24 5,000 dosage units for any single NDC, National

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1 Drug Code, product per order.  
 2 Q. Do you know how that threshold  
 3 was calculated?  
 4 A. As far as how was it established?  
 5 Q. Right.  
 6 A. I do not know.  
 7 Q. Do you know why 5,000 was picked?  
 8 A. I do not know.  
 9 Q. Throughout the entirety of your  
 10 knowledge, that threshold was the same. Correct?  
 11 A. That threshold remained the same  
 12 until we stopped distributing controlled  
 13 substances in 2014.  
 14 Q. So from 1995 to 2014, the  
 15 threshold was always 5,000 dosage units per NDC?  
 16 MS. McENROE: Objection to form.  
 17 BY MR. PIFKO:  
 18 Q. Per week? Per order? Sorry.  
 19 A. That is correct.  
 20 Q. And what was the same threshold  
 21 at all stores, with a handful of exceptions.  
 22 Correct?  
 23 MS. McENROE: Objection to form.  
 24 THE WITNESS: That is correct.

<p style="text-align: right;">Page 38</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Do you know approximately how</p> <p>3 many stores had exceptions to that threshold?</p> <p>4 A. My guess would be less than a</p> <p>5 dozen.</p> <p>6 Q. Can you name them?</p> <p>7 A. I can name a few. Rite Aid 777.</p> <p>8 I believe Rite Aid number 408. Those are the two</p> <p>9 that I remember.</p> <p>10 Q. Do you know where those are</p> <p>11 located? How about 777, where is that located?</p> <p>12 A. It was located in New Jersey.</p> <p>13 Q. How about 408?</p> <p>14 A. I don't know where that one is</p> <p>15 located.</p> <p>16 Q. You can't recall any others?</p> <p>17 A. There were others with</p> <p>18 exceptions. I believe yesterday we discussed</p> <p>19 3151.</p> <p>20 Q. Do you know where that store is</p> <p>21 located?</p> <p>22 A. Ohio.</p> <p>23 Q. Do you know where in Ohio?</p> <p>24 A. I believe Akron.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. I don't recall being a part of</p> <p>2 those discussions.</p> <p>3 Q. Do you know what the nature of</p> <p>4 those discussions were with the logistics team to</p> <p>5 change those numbers?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: I do not.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Do you know why they were having</p> <p>10 such discussions?</p> <p>11 MS. McENROE: Objection to form.</p> <p>12 THE WITNESS: I think part of it</p> <p>13 always to look at the program and</p> <p>14 determine if it's adequate or not.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. And was at some point someone was</p> <p>17 concerned that it wasn't adequate?</p> <p>18 MS. McENROE: Objection to form.</p> <p>19 THE WITNESS: No. I did not say</p> <p>20 that. I said they were looking at it to</p> <p>21 continue to make sure that it was</p> <p>22 adequate.</p> <p>23 - - -</p> <p>24 (Deposition Exhibit No.</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Any others?</p> <p>2 A. Those are the ones that I</p> <p>3 remember.</p> <p>4 Q. So that's a feature of Rite Aid's</p> <p>5 suspicious order monitoring system. And that</p> <p>6 feature has been the same over the entirety of</p> <p>7 your knowledge up to and including 2014, when you</p> <p>8 stopped distributing Schedule III controlled</p> <p>9 substances. Correct?</p> <p>10 MS. McENROE: Objection to the</p> <p>11 form.</p> <p>12 THE WITNESS: To the best of my</p> <p>13 knowledge, yes.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Were there ever any discussions</p> <p>16 about changing that number?</p> <p>17 MS. McENROE: Objection to form.</p> <p>18 THE WITNESS: I don't recall any</p> <p>19 discussions. There may have been</p> <p>20 discussions within the logistics team to</p> <p>21 change the number.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Were you part of any of those</p> <p>24 discussions?</p>	<p style="text-align: right;">Page 41</p> <p>1 Hart-30(b)(6)-3, Email chain, top one</p> <p>2 dated 2010-11-24, Bates stamped</p> <p>3 Rite_Aid_OMDL_0046695, was marked for</p> <p>4 identification.)</p> <p>5 - - -</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. I'm handing you what's marked as</p> <p>8 Exhibit 3.</p> <p>9 For the record, Exhibit 3 is a</p> <p>10 single page document Bates labeled</p> <p>11 Rite_Aid_OMDL_0046695.</p> <p>12 Let me know -- take a minute to</p> <p>13 review that and let me know when you're done.</p> <p>14 A. (Reviewing document.)</p> <p>15 Q. Are you ready?</p> <p>16 A. I'm ready.</p> <p>17 Q. Have you seen this before?</p> <p>18 A. I have.</p> <p>19 Q. When was the last time you saw</p> <p>20 this?</p> <p>21 A. Within the past few days.</p> <p>22 Q. Is this something you reviewed in</p> <p>23 preparing for your 30(b)(6) deposition?</p> <p>24 A. Yes.</p>

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1 Q. In preparing for the 30(b)(6)  
2 deposition, did you discuss this document with  
3 anyone from the company?  
4 A. From Rite Aid?  
5 Q. Yes.  
6 A. I did not.  
7 Q. Who is Owen McMahon?  
8 A. Owen, at this time, was our  
9 senior director of generic purchasing and  
10 specialty programs.  
11 Q. Is he still with the company?  
12 A. He is.  
13 Q. What's his current role?  
14 A. Vice president of pharmacy  
15 purchasing in some capacity.

[REDACTED]

Page 43

[REDACTED]

Page 44

[REDACTED]

Page 45

[REDACTED]

Page 46

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Page 48

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Page 49

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Page 50

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22 [REDACTED]  
23 BY MR. PIFKO:  
24 Q. If an order is placed in order to

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1 fill quantities of prescriptions that have been  
2 stolen, do you believe that order could be  
3 suspicious?  
4 MS. McENROE: Objection to form.  
5 THE WITNESS: Can you repeat the  
6 question?  
7 BY MR. PIFKO:  
8 Q. Yeah.  
9 If a store has a certain amount  
10 of inventory of controlled substances, and for  
11 purposes of this discussion let's keep it  
12 Schedule III controlled substances. Okay?  
13 So if a store has a material  
14 volume of Schedule III controlled substances  
15 stolen and it needs to place an order to  
16 replenish that inventory as a result of the  
17 theft, do you believe that that could be a  
18 suspicious order?  
19 MS. McENROE: Objection to form.  
20 THE WITNESS: I do not believe  
21 it's a suspicious order. If you are --  
22 theft and diversion in a store does not  
23 impact a suspicious order, per se.  
24 BY MR. PIFKO:

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1 Q. Do you believe that if the  
2 quantities of Schedule III controlled substances  
3 that are ordered are increased because theft is  
4 occurring at the store, that that could be a  
5 suspicious order?  
6 MS. McENROE: Objection, form.  
7 THE WITNESS: It could not be --  
8 excuse me -- a suspicious order to the  
9 distribution center in simply ordering  
10 the product. The distribution center  
11 does not know the nature of what is going  
12 to happen to those drugs.  
13 BY MR. PIFKO:  
14 Q. Do you believe that the  
15 distribution center and the company has a duty to  
16 know that the theft is occurring and factor that  
17 into their shipping of orders?  
18 MS. McENROE: Objection to form.  
19 THE WITNESS: Can you repeat the  
20 question? I'm sorry.  
21 BY MR. PIFKO:  
22 Q. Yeah.  
23 Do you believe that the  
24 distribution center and Rite Aid in general have

<p style="text-align: right;">Page 54</p> <p>1 a duty to know that the theft is occurring and</p> <p>2 factor that into their evaluation of whether</p> <p>3 they're shipping orders to a specific store?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: I believe Rite Aid</p> <p>6 has a duty, from a pharmacy registrant</p> <p>7 perspective, to identify theft and</p> <p>8 diversion and to follow DEA protocol and</p> <p>9 report it.</p> <p>10 From the distribution side,</p> <p>11 there -- just because simply a store has</p> <p>12 diversion of an associate does not mean</p> <p>13 that an order would be suspicious.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Have you heard the term "know</p> <p>16 your customer"?</p> <p>17 A. I have.</p> <p>18 Q. What's your understanding of what</p> <p>19 that teams?</p> <p>20 MS. McENROE: Objection, form.</p> <p>21 THE WITNESS: Know your customer</p> <p>22 is that you identify everyone that you</p> <p>23 ship to. In the course of Rite Aid, our</p> <p>24 customers are ourselves. To know your</p>	<p style="text-align: right;">Page 56</p> <p>1 flags are, yes.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. What's your understanding of what</p> <p>4 red flags of diversion are?</p> <p>5 MS. McENROE: Objection to form.</p> <p>6 THE WITNESS: Red flags are</p> <p>7 identified by the Drug Enforcement</p> <p>8 Administration for a pharmacist when</p> <p>9 dispensing a controlled substance</p> <p>10 prescription. There are numerous red</p> <p>11 flags. They include, does the pharmacist</p> <p>12 know the patient, is it a known patient.</p> <p>13 They include, does the pharmacist know</p> <p>14 the prescriber, is it a known prescriber.</p> <p>15 They include a valid patient relationship</p> <p>16 between the prescriber and the patient.</p> <p>17 It also requires you to check to</p> <p>18 determine, from a red flag standpoint, is</p> <p>19 it in the geographic area. They</p> <p>20 require -- a red flag can be to look at a</p> <p>21 prescription to determine if it was a</p> <p>22 forged prescription or not, to determine</p> <p>23 if perhaps another pharmacy had declined</p> <p>24 to fill and had noted on the</p>
<p style="text-align: right;">Page 55</p> <p>1 customer, you should make sure that their</p> <p>2 licenses are correct. You should make</p> <p>3 sure that they have a physical building</p> <p>4 that is licensed by the Board of</p> <p>5 Pharmacy. You should make sure that they</p> <p>6 have a DEA registration. Knowing your</p> <p>7 customer is making sure that they are</p> <p>8 registered, that they are a pharmacy, and</p> <p>9 they are entitled to be able to receive</p> <p>10 and dispense controlled substances.</p> <p>11 In Rite Aid's case, our customer</p> <p>12 is ourselves. So from a licensing</p> <p>13 perspective, the licensing coordinator is</p> <p>14 in our corporate office. And so we know</p> <p>15 the stores are licensed. We know the</p> <p>16 whole process.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. This question came up yesterday,</p> <p>19 so I know you know the answer, but I'll ask you</p> <p>20 for purposes of the 30(b)(6).</p> <p>21 Do you know what red flags of</p> <p>22 diversion are?</p> <p>23 MS. McENROE: Objection to form.</p> <p>24 THE WITNESS: I know what red</p>	<p style="text-align: right;">Page 57</p> <p>1 prescription. Red flag would be to make</p> <p>2 sure that the prescription was issued for</p> <p>3 a valid medical reason by a prescriber in</p> <p>4 the course of their due diligence and</p> <p>5 their specialty.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Did Rite Aid ever consider any</p> <p>8 red flags of diversion with respect to whether it</p> <p>9 was going to fill an order placed by any of its</p> <p>10 pharmacies for a Schedule III controlled</p> <p>11 substance?</p> <p>12 MS. McENROE: Objection to form.</p> <p>13 THE WITNESS: Rite Aid and all of</p> <p>14 our pharmacies identify red flags. If a</p> <p>15 red flag is identified, the prescription</p> <p>16 is not filled at that particular time and</p> <p>17 declined and provided back to the</p> <p>18 patient. Should that be -- should there</p> <p>19 be a red flag that meets our criteria, it</p> <p>20 would not be dispensed.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Do you believe that theft is one</p> <p>23 of the red flags of diversion?</p> <p>24 MS. McENROE: Objection to form.</p>

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1 THE WITNESS: Theft is not a red  
2 flag of the prescription processing.  
3 Part of theft is diversion, yes, but  
4 involved in the red flag process, it's  
5 not diversion as such in a red flag  
6 process.  
7 BY MR. PIFKO:  
8 Q. When I asked you about "know your  
9 customer," do you believe that the  
10 know-your-customer requirement includes a  
11 requirement to know about whether the red flags  
12 of diversion are occurring at your customer's  
13 location?  
14 MS. McENROE: Objection to form.  
15 THE WITNESS: I believe know your  
16 customer, yes, would include if the  
17 pharmacies are following the red flags  
18 process.  
19 BY MR. PIFKO:  
20 Q. Okay. And so with respect to  
21 Rite Aid's duty to prevent diversion and to  
22 identify suspicious orders, did Rite Aid have any  
23 system in place to consider red flags of  
24 diversion when an order was placed at any of its

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1 pharmacies?  
2 MS. McENROE: Objection to form.  
3 THE WITNESS: If red flags were  
4 identified when a prescription was being  
5 dispensed, the prescription would not be  
6 dispensed. So that would not result in  
7 an order to the distribution center.  
8 BY MR. PIFKO:  
9 Q. So it's your testimony that in  
10 every instance throughout the relevant time  
11 period, if a red flag occurred, it was always  
12 caught and observed at the pharmacy and never  
13 resulted in a prescription being dispensed?  
14 MS. McENROE: Objection to form.  
15 THE WITNESS: Can you repeat  
16 that, please?  
17 BY MR. PIFKO:  
18 Q. Yes.  
19 So my question is, it's your  
20 testimony that is it -- are you saying that in  
21 every instance throughout the relevant time  
22 period, if a red flag occurred, it was always  
23 caught and observed at the pharmacy, and that  
24 prescription was never dispensed?

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1 MS. McENROE: Objection to form.  
2 THE WITNESS: I would never say  
3 in every instance.  
4 BY MR. PIFKO:  
5 Q. Okay. In most instances?  
6 A. In the majority, yes.  
7 MS. McENROE: Objection to form.  
8 Mark, we've been going about an  
9 hour.  
10 Are you looking for a break, too?  
11 THE WITNESS: (Witness nods  
12 head.)  
13 MS. McENROE: Okay. The witness  
14 is asking for a break, too.  
15 MR. PIFKO: Okay.  
16 THE VIDEOGRAPHER: Going off the  
17 record at 10:27 a.m.  
18 - - -  
19 (A recess was taken from  
20 10:27 a.m. to 10:41 a.m.)  
21 - - -  
22 THE VIDEOGRAPHER: We're back on  
23 the record at 10:41 a.m.  
24 BY MR. PIFKO:

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1 Q. Welcome back.  
2 Okay. Before we took a break, we  
3 were talking about red flags of diversion and  
4 knowing your customer. Okay?  
5 A. Yes.  
6 Q. Do you remember that?  
7 So I was asking you if there was  
8 a way that Rite Aid factors in the red flags of  
9 diversion into a suspicious order that could be  
10 placed -- or, sorry, an order that could be  
11 placed.  
12 MS. McENROE: Objection to form.  
13 BY MR. PIFKO:  
14 Q. Do you recall that discussion?  
15 A. Yes.  
16 Q. Okay. And am I correct that your  
17 testimony was that Rite Aid factors in red flags  
18 of diversion into its order system because the  
19 pharmacist would identify that and that  
20 prescription would never be filled; is that  
21 correct?  
22 MS. McENROE: Objection to form.  
23 THE WITNESS: Could you do that  
24 again, please?

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1 BY MR. PIFKO:  
 2 Q. Yep.  
 3 My question is -- well, why don't  
 4 you just tell me. How does Rite Aid factor red  
 5 flags of diversion into an order for a Schedule  
 6 III controlled substance?  
 7 MS. McENROE: Objection to form.  
 8 THE WITNESS: If there was a red  
 9 flag that was identified for a  
 10 prescription in a pharmacy, the  
 11 pharmacist has the ability to assess that  
 12 prescription and determine if their  
 13 prescription should be filled or not.  
 14 Simply because there's one red flag  
 15 doesn't mean that the prescription should  
 16 not be filled.  
 17 That being said, if there's a red  
 18 flag and the prescription is not filled,  
 19 and the pharmacist refuses to fill it,  
 20 there's no way that that's ever going to  
 21 get to be an order to go to the  
 22 distribution center, because at that  
 23 point, there's no dispensing of the drug.  
 24 There's no need for replenishment from

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1 the distribution center.  
 2 BY MR. PIFKO:  
 3 Q. Is it your testimony that red  
 4 flags of diversion are always caught and stopped  
 5 by pharmacists before a prescription is filled?  
 6 MS. McENROE: Objection to form.  
 7 THE WITNESS: Not all red flags  
 8 are caught before diversion occurs or  
 9 before they're filled.  
 10 BY MR. PIFKO:  
 11 Q. So there are occasions when an  
 12 order is placed from a pharmacy where a  
 13 prescription has been filled even though there  
 14 were red flags; is that correct?  
 15 MS. McENROE: Objection to form.  
 16 THE WITNESS: Can you repeat,  
 17 please?  
 18 BY MR. PIFKO:  
 19 Q. You agree that there are  
 20 instances where a prescription is placed to be  
 21 filled at a Rite Aid pharmacy that may have  
 22 indicia of red flags. Correct?  
 23 MS. McENROE: Objection to form.  
 24 THE WITNESS: There could be a

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1 prescription presented with red flags,  
 2 yes.  
 3 BY MR. PIFKO:  
 4 Q. And you agree that that's not  
 5 always caught by a pharmacist. Correct?  
 6 MS. McENROE: Objection to form.  
 7 THE WITNESS: The majority of the  
 8 time it would be caught. But, yes, there  
 9 are instances where a red flag is not  
 10 caught or red flags are not caught.  
 11 BY MR. PIFKO:  
 12 Q. So my question is, in these  
 13 instances where red flags are not caught, is  
 14 there any system in place where Rite Aid takes  
 15 those red flags into account when considering  
 16 whether to ship an order to one of its  
 17 pharmacies?  
 18 MS. McENROE: Objection to form.  
 19 THE WITNESS: There is not.  
 20 BY MR. PIFKO:  
 21 Q. Does Rite Aid have any system in  
 22 place to evaluate whether prescriptions are being  
 23 placed without legitimate medical need at its  
 24 pharmacies when it's filling an order of Schedule

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1 III controlled substances for that pharmacy?  
 2 MS. McENROE: Objection to form.  
 3 THE WITNESS: The red flags  
 4 process is in place in Rite Aid  
 5 pharmacies to identify fraudulent  
 6 activity or activity related to a  
 7 prescription to identify the red flags on  
 8 a prescription for controlled substances.  
 9 BY MR. PIFKO:  
 10 Q. The only process in place is at  
 11 the pharmacy through the pharmacist; is that  
 12 correct?  
 13 MS. McENROE: Objection to form.  
 14 THE WITNESS: When dispensing a  
 15 prescription, the pharmacist is the front  
 16 line. And yes, they're a licensed  
 17 individual that's trained and schooled to  
 18 be able to identify red flags. So yes,  
 19 the red flags and the prescription is  
 20 identified by the pharmacist. It has  
 21 nothing to do with the distribution  
 22 center.  
 23 BY MR. PIFKO:  
 24 Q. All I'm trying to understand, is

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1 there any way that that kind of information is  
 2 passed on to the distribution center.  
 3 So is your testimony that  
 4 potential red flag activity at a store location  
 5 is never passed on to the distribution center?  
 6 MS. McENROE: Objection to form.  
 7 THE WITNESS: To the best of my  
 8 knowledge, the red flag activity is not  
 9 passed on to the distribution center back  
 10 when we distributed controlled substances  
 11 up till 2014.  
 12 BY MR. PIFKO:  
 13 Q. And there's no -- that means that  
 14 there was no system in place to consider red  
 15 flags of diversion at the distribution center  
 16 when an order was being shipped. Correct?  
 17 MS. McENROE: Objection to form.  
 18 THE WITNESS: That is correct.  
 19 The red flags are determined by the  
 20 pharmacist that is in the pharmacy in  
 21 whether or not to dispense the  
 22 prescription.  
 23 BY MR. PIFKO:  
 24 Q. Let's go back to the thresholds.

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1 Remember we were talking about  
 2 attributes of Rite Aid's system to identify,  
 3 report and halt suspicious orders.  
 4 MS. McENROE: Objection to form.  
 5 BY MR. PIFKO:  
 6 Q. You recall us discussing that?  
 7 A. I do.  
 8 Q. Okay. So it was your testimony  
 9 that thresholds are one attribute of the system.  
 10 Correct?  
 11 A. That is correct.  
 12 Q. And other than a -- less than a  
 13 dozen, all store locations had a threshold of  
 14 5,000 dosage units per NDC per order. Correct?  
 15 MS. McENROE: Objection.  
 16 THE WITNESS: Correct.  
 17 BY MR. PIFKO:  
 18 Q. And that was a threshold that was  
 19 in place for multiple decades. Correct?  
 20 MS. McENROE: Objection to form.  
 21 THE WITNESS: Yes. Keep in mind  
 22 for this, the Perryman Distribution  
 23 Center did not open until I believe 1998  
 24 or somewhere in that time frame.

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1 BY MR. PIFKO:  
 2 Q. So from the entirety of its  
 3 operation, that was the threshold when Rite Aid  
 4 was shipping Schedule III controlled substances  
 5 as a distributor. Correct?  
 6 MS. McENROE: Objection to form.  
 7 THE WITNESS: Correct.  
 8 BY MR. PIFKO:  
 9 Q. And we talked about a meeting,  
 10 when I showed you Exhibit 3, discussing the  
 11 thresholds. Correct?  
 12 A. We discussed a meeting.  
 13 Q. So you -- we talked about the  
 14 people who are present at the meeting, and you  
 15 said that Andy Palmer was there because he had  
 16 the asset protection program. Correct?  
 17 A. That is correct.  
 18 Q. And you clarified that NaviScript  
 19 is never used to identify or report a suspicious  
 20 order. Correct?  
 21 MS. McENROE: Objection to form.  
 22 THE WITNESS: That is correct.  
 23 BY MR. PIFKO:  
 24 Q. All right. And so Maggie Perritt

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1 was another person who was there from operations.  
 2 Correct?  
 3 A. Yes.  
 4 Q. And you invited her to that  
 5 meeting?  
 6 A. I don't remember who invited  
 7 whom, but yes, she was at the meeting.  
 8 Q. Why was she invited to the  
 9 meeting?  
 10 A. Maggie was the pharmacy  
 11 operations person at the meeting that knew  
 12 algorithms, and also was the operator there that  
 13 would be impacted by thresholds.  
 14 Q. When you say she would be  
 15 impacted by thresholds, what do you mean?  
 16 A. The service to the stores and the  
 17 pharmacies obtaining their drugs. Pharmacy  
 18 operations obviously is in charge of who -- the  
 19 pharmacists that are dispensing the drugs and the  
 20 operating of the pharmacies.  
 21 Q. So if there was a change in the  
 22 threshold, it would impact the pharmacy  
 23 operations?  
 24 MS. McENROE: Objection to form.



<p style="text-align: right;">Page 70</p> <p>1 THE WITNESS: It could. It</p> <p>2 could.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. How would it impact the pharmacy</p> <p>5 operations?</p> <p>6 A. It may impact their ordering. It</p> <p>7 may impact the amount of product that they would</p> <p>8 have on their shelves. There could be any number</p> <p>9 of ways that it could be impacted.</p> <p>10 Q. Was that part of the discussion</p> <p>11 at this meeting?</p> <p>12 A. At this meeting -- I don't</p> <p>13 recall.</p> <p>14 Q. Do you recall discussing -- you</p> <p>15 said Maggie had some knowledge about algorithms;</p> <p>16 is that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Do you recall a specific</p> <p>19 discussion with Maggie about algorithms and</p> <p>20 suspicious order monitoring at this meeting?</p> <p>21 A. I recall what occurred at the</p> <p>22 meeting was that we were trying to put down in</p> <p>23 detail the algorithms that were used in our</p> <p>24 suspicious order monitoring program so that we</p>	<p style="text-align: right;">Page 72</p> <p>1 to a government agency, such as the DEA,</p> <p>2 concerning the algorithms that may have been</p> <p>3 used?</p> <p>4 MS. McENROE: Objection to form.</p> <p>5 THE WITNESS: I believe the</p> <p>6 distribution centers had information as</p> <p>7 far as obtaining the orders and the</p> <p>8 thresholds and part of their suspicious</p> <p>9 order program, but they did not know the</p> <p>10 detail of the algorithms to the effect of</p> <p>11 what was included and how the algorithms</p> <p>12 work. There's numerous algorithms that</p> <p>13 come together. And they did not have all</p> <p>14 of that, no.</p> <p>15 They had a document to provide to</p> <p>16 the DEA. They really did provide -- that</p> <p>17 was sufficient for DEA inspections 2005,</p> <p>18 2009, prior to this meeting. So the</p> <p>19 documentation on suspicious order</p> <p>20 monitoring was at the distribution center</p> <p>21 and adequate for the DEA.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. There's a document that was</p> <p>24 created in 2005?</p>
<p style="text-align: right;">Page 71</p> <p>1 could communicate it effectively to our</p> <p>2 distribution centers on a one-page document so</p> <p>3 that the DC would have something to present to</p> <p>4 government agency, the Drug Enforcement</p> <p>5 Administration, that would visit and do an</p> <p>6 inspection.</p> <p>7 Q. So prior -- and this meeting</p> <p>8 occurred, if we look back at Exhibit 3, the email</p> <p>9 is at the end of 2010. Agree?</p> <p>10 A. Yes.</p> <p>11 Q. Do you have a recollection about</p> <p>12 when this meeting occurred after that email?</p> <p>13 A. Maybe early 2011. I don't</p> <p>14 recall.</p> <p>15 Q. That's your best estimate, is</p> <p>16 early 2011 when this meeting occurred?</p> <p>17 A. Best estimate, yes. I don't -- I</p> <p>18 don't recall truly.</p> <p>19 Q. You said that you wanted to put</p> <p>20 detail down concerning the algorithms so that you</p> <p>21 could communicate them to the distribution</p> <p>22 centers.</p> <p>23 Prior to this discussion, did the</p> <p>24 distribution centers have any document to present</p>	<p style="text-align: right;">Page 73</p> <p>1 A. There was a DEA inspection in</p> <p>2 2005 at the distribution center. And as part of</p> <p>3 their standard operating procedures in suspicious</p> <p>4 order monitoring program, the distribution center</p> <p>5 at that time had passed inspection.</p> <p>6 Q. There was another inspection in</p> <p>7 2009?</p> <p>8 A. There was another inspection in</p> <p>9 2009.</p> <p>10 Q. Which specific facility are we</p> <p>11 talking about with respect to the 2005 and 2009</p> <p>12 inspections?</p> <p>13 A. We are speaking of the Perryman</p> <p>14 Distribution Center.</p> <p>15 Q. You're opening a binder.</p> <p>16 Can you tell me what that is?</p> <p>17 A. Sure. It's a binder of documents</p> <p>18 that I asked counsel to prepare for me to review</p> <p>19 for the deposition.</p> <p>20 Q. And you're looking for something</p> <p>21 specific in there right now?</p> <p>22 A. I was looking for a memo on the</p> <p>23 DEA audit summary for 2005 and 2009.</p> <p>24 Q. It's your understanding that</p>

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1 there was some documentation concerning  
 2 algorithms that may have been provided during  
 3 those inspections?  
 4 MS. McENROE: Objection to form.  
 5 THE WITNESS: I was not at the  
 6 inspections. I do not know. I know that  
 7 there was an inspection and what was  
 8 provided to the DEA through their normal  
 9 routine audit, which is looking for  
 10 suspicious order monitoring. The  
 11 distribution centers had no violations at  
 12 those times.  
 13 BY MR. PIFKO:  
 14 Q. You don't know what was provided  
 15 to the DEA in connection with those inspections,  
 16 though?  
 17 MS. McENROE: Objection to form.  
 18 THE WITNESS: I do not.  
 19 BY MR. PIFKO:  
 20 Q. Did the DEA provide any written  
 21 documentation after those inspections?  
 22 A. I will check.  
 23 Q. If you can narrate for me what  
 24 you're checking, I would appreciate it.

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1 A. Sure.  
 2 I am narrating a communication  
 3 from Kevin Mitchell, who was our senior manager  
 4 of regulatory compliance, for the distribution  
 5 centers as an update of the inspection.  
 6 Typically when you have a DEA  
 7 inspection, they will leave you -- if there are  
 8 deficiencies, they typically do not leave you any  
 9 documentation. If you have passed a DEA  
 10 inspection, you can receive a letter of  
 11 admonition.  
 12 And in this particular  
 13 correspondence, the words were -- the closing  
 14 comments specifically mentioned that they have no  
 15 words of advice for the staff for improvement.  
 16 It was a flawless audit.  
 17 Q. Can you read the -- you are  
 18 looking at a document that was produced in the  
 19 case. Correct?  
 20 A. Yes.  
 21 Q. What's the Bates number for that  
 22 document? Do you know what that -- on the bottom  
 23 right-hand corner, there's a number.  
 24 A. 0047171.

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1 MS. McENROE: And that was a Rite  
 2 Aid produced document.  
 3 BY MR. PIFKO:  
 4 Q. There's some words before the  
 5 number.  
 6 Can you read those words, too?  
 7 A. Yes. Rite\_Aid\_OMDL\_.  
 8 Q. Thanks.  
 9 So there was no DEA documentation  
 10 provided after that audit. Correct?  
 11 MS. McENROE: Objection to form.  
 12 THE WITNESS: Correct.  
 13 BY MR. PIFKO:  
 14 Q. The only documentation that you  
 15 have is a summary written by Kevin Mitchell?  
 16 MS. McENROE: Objection to form.  
 17 THE WITNESS: Yes.  
 18 BY MR. PIFKO:  
 19 Q. Let's talk about these algorithms  
 20 that you've been referring to.  
 21 So is it your testimony that  
 22 these algorithms are part of Rite Aid's  
 23 suspicious order monitoring system?  
 24 A. They are.

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1 Q. You've made it sound like there's  
 2 more than one?  
 3 A. Yes.  
 4 Q. Is that correct?  
 5 So what are the algorithms that  
 6 you contend are part of Rite Aid's suspicious  
 7 order monitoring system?  
 8 MS. McENROE: Objection to form.  
 9 THE WITNESS: In an overall  
 10 perspective, what happens is Rite Aid's  
 11 system, in order to place an order,  
 12 reviews a store's order history for the  
 13 [REDACTED]  
 14 [REDACTED]  
 15 [REDACTED]  
 16 At that particular point, it  
 17 places an order based on that individual  
 18 [REDACTED]  
 19 history. And it allows the store to  
 20 [REDACTED]  
 21 [REDACTED]  
 22 There are other factors that come  
 23 into play, such as a weighted moving  
 24 average, depending on what time the order

<p style="text-align: right;">Page 78</p> <p>1 is placed. There's calculate regular 2 movement averages, perform checks on 3 weeks with no movement. 4 So there's a series of 5 algorithms, but the general overall one 6 is looking at that specific store's data, 7 analyzing it, looking at what's on hand 8 in the store, and analyzing to determine 9 what order should be placed for that 10 store. 11 BY MR. PIFKO: 12 Q. Can orders be placed manually? 13 MS. McENROE: Object to the form. 14 THE WITNESS: Once the order gets 15 to the store, there is the ability for 16 the pharmacist to override the order, 17 yes. 18 BY MR. PIFKO: 19 Q. How does that process work, the 20 manual process? 21 A. If the algorithm says to order 22 60, and the pharmacist has an order for 90 23 tablets, then at that point the pharmacist can 24 override to get the additional tablets that they</p>	<p style="text-align: right;">Page 80</p> <p>1 stores, and twice a week in a very limited number 2 of stores. 3 Q. So let me break that down. 4 So most -- what most -- what's 5 the ordering pattern for most stores? 6 A. Most stores, Rite Aid places an 7 order once a week. 8 Q. Some stores place two orders a 9 week? 10 A. Some stores place two orders a 11 week, yes. 12 Q. Some stores place orders every 13 two weeks? 14 A. Yes. 15 Q. Is there any other ordering 16 pattern that we haven't discussed? 17 A. No. The stores are -- once a 18 store is programmed in, they can't place 19 additional orders. 20 Q. Well, I'm just trying to 21 understand. So there's three categories here. 22 There's stores that order once a 23 week, which is most of the stores. 24 Then there's another category of</p>
<p style="text-align: right;">Page 79</p> <p>1 need in the order. 2 Q. So when an order is going to be 3 placed, the pharmacist has access to see what 4 that order is? 5 MS. McENROE: Objection. 6 THE WITNESS: Yes. The 7 pharmacist has to have access to see that 8 order. 9 BY MR. PIFKO: 10 Q. So it's in this automated system, 11 but then there's some screen where the pharmacist 12 can see what the automated system is calculating 13 for the order? 14 A. Yes. 15 Q. Is there a name for that screen? 16 A. I don't know what the name is. 17 Q. Is the pharmacist required to 18 check the order before it's placed every time? 19 A. Typically they do. I don't know 20 if it's required. 21 Q. And so orders are placed by Rite 22 Aid stores with a regular frequency. Correct? 23 A. Orders are placed once a week, 24 once every other week in a limited number of</p>	<p style="text-align: right;">Page 81</p> <p>1 stores that can order two orders in a week. 2 Correct? 3 A. Correct. 4 Q. And then there's another category 5 of stores that place one order every two weeks. 6 Correct? 7 A. Correct. 8 Q. And there's no other pattern 9 within Rite Aid for ordering. Correct? 10 MS. McENROE: Objection to form. 11 THE WITNESS: From the 12 distribution center, no. 13 BY MR. PIFKO: 14 Q. When you say most stores are on 15 this one order every week pattern, do you have an 16 understanding about the percentage of stores that 17 are in that pattern? 18 A. Best guess estimate is 90 percent 19 are on that pattern. 20 Q. How about stores that place two 21 orders a week, do you have a sense of the 22 percentage of stores that fit in that category? 23 A. Let's reduce the first one to 24 80 percent. Sorry.</p>

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1 Q. Okay. So 80 percent of the  
2 stores place one order every week. Correct?  
3 A. Correct.  
4 Q. What percentage of stores place  
5 two orders a week?  
6 A. To the best of my knowledge,  
7 about 15 percent.  
8 Q. What percentage of stores place  
9 one order every two weeks?  
10 A. 5 percent.  
11 Q. The stores that place two orders  
12 a week, are they located in specific areas?  
13 MS. McENROE: Objection.  
14 THE WITNESS: The stores that  
15 order twice a week typically are in urban  
16 areas such as Center City Philadelphia,  
17 Center City New York City, where to get  
18 one order once a week, there's not enough  
19 room in the store itself to hold the  
20 front end merchandise.  
21 So an order needs to be shipped  
22 twice a week in order to keep the  
23 merchandise in the store to be sold.  
24 That's typically when a store gets two

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1 orders a week.  
2 BY MR. PIFKO:  
3 Q. So those stores are -- the square  
4 footage of the stores is somewhat smaller and  
5 they don't have room for inventory.  
6 Is that what you're saying?  
7 A. Typically, yes.  
8 Q. Are there other occasions where a  
9 store would have two orders a week?  
10 A. No. That's primarily it.  
11 Q. What about stores that order once  
12 every two weeks, is there some sort of  
13 characteristic about those stores?  
14 A. Those may be the lower volume  
15 stores that dispense less prescriptions or have  
16 less movement of front end merchandise. A lower,  
17 slower front end selling front end merchandise  
18 may get it every two weeks.  
19 Q. And just for clarity, when you  
20 talk about "front end," that's everything that's  
21 not in the pharmacy. Correct?  
22 A. That is correct.  
23 Q. Is that an internal term that  
24 Rite Aid uses, front end versus pharmacy

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1 operations?  
2 A. I think a lot of people in the  
3 industry use the term "front end" versus  
4 pharmacy.  
5 Q. But that's also a term that Rite  
6 Aid uses?  
7 A. Yes.  
8 Q. Let's go back to the algorithms  
9 of ordering.  
10 So a pharmacist can see the order  
11 that's about to be placed in advance of it being  
12 placed. Correct?  
13 A. Yes.  
14 Q. How far in advance of it being  
15 placed can a pharmacist see it?  
16 A. I believe a day. And then they  
17 have time to review it and then make changes,  
18 should they decide to.  
19 Q. And then when a pharmacist sees  
20 the order that's about to be placed, they can  
21 manually increase the volumes that are on the  
22 order; is that correct?  
23 MS. McENROE: Objection to form.  
24 THE WITNESS: They can manually

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1 increase the volumes or they can manually  
2 decrease the volumes.  
3 BY MR. PIFKO:  
4 Q. So you talked about the highest  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 A. Yes.  
10 Q. Okay. But then the pharmacist  
11 could manually increase that. Correct?  
12 MS. McENROE: Objection to form.  
13 THE WITNESS: They have the  
14 ability to do that.  
15 BY MR. PIFKO:  
16 Q. Are there any other algorithms  
17 that are in place?  
18 A. There are other algorithms or  
19 there are other pieces of the program which  
20 allows no greater than 99 bottles to be  
21 distributed in -- of any given product at any  
22 given time as well.  
23 Q. Can a pharmacist manually  
24 override that?

<p style="text-align: right;">Page 86</p> <p>1 A. The pharmacist has the ability 2 to -- no. Pardon me. Step back. 3 The pharmacist cannot override 4 the 99 bottles. 5 Q. Are there any other algorithms in 6 place? 7 And you're looking at a document. 8 Can you read the Bates number of the document? 9 A. I can. 004 -- oh. 10 Rite_Aid_OMDL_0045426. 11 Q. Is there a name for that 12 document? 13 A. It is called pharmacy 14 replenishment algorithm. Okay. 15 There are other parts to the 16 algorithm that come into play as well, one of 17 them being making an account for what we call 18 90-day fills at the pharmacy. 19 So what that means is a patient 20 comes in and has a 30 -- a prescription for 30 21 days of like their blood pressure medication. 22 The patient chooses to get a 90-day supply or 23 three months at a time. 24 So instead of having the</p>	<p style="text-align: right;">Page 88</p> <p>1 in each of the facilities. 2 Q. And why did that make him someone 3 that was invited to this meeting? 4 A. He owned the process of the 5 distribution of the controlled substances and the 6 pickers, was involved with -- directly involved 7 with the individual pickers that picked, the 8 operations of the controlled substance cages. 9 So because of that and impacting 10 thresholds, he was invited to the meeting. And 11 also he was the one that attended the Buzzeo 12 conference that wanted to have some discussion 13 around it. 14 Q. Were there any -- you talked 15 about putting together a document. 16 That was something that was 17 discussed at this meeting. Correct? 18 A. It was. 19 Q. Did this meeting ultimately 20 result in a document being created? 21 A. It did not. 22 Q. Why was that? 23 A. Several -- an individual at the 24 meeting left the company.</p>
<p style="text-align: right;">Page 87</p> <p>1 replenishment algorithm ship that product to the 2 store for the 30 days, 30 days and 30 days, the 3 algorithm takes into effect that that patient's 4 not coming back until 90 days. So you have to 5 have that product in 90 days instead of two 30 6 days. So that's part of the algorithm as well. 7 And that's the gist of the 8 algorithms. The rest of it can be found in the 9 document. 10 Q. Were there any changes to the 11 algorithms? 12 MS. McENROE: Objection to form. 13 THE WITNESS: To the best of my 14 knowledge, no. 15 BY MR. PIFKO: 16 Q. Then going back to this meeting, 17 Kevin Mitchell was another person who was 18 invited. Correct? 19 A. Correct. 20 Q. Why was he invited? 21 A. Kevin has responsibility for 22 the controlled -- had responsibility for the 23 controlled substance cages at the distribution 24 centers and was working with the DEA coordinators</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Who is that? 2 A. Maggie Perritt. 3 Q. And she was going to be 4 responsible for putting this documentation 5 together? 6 A. Yes. 7 Q. Do you know why she left? 8 A. To take a job elsewhere. She 9 moved to Florida. 10 Q. Did she make any comments on the 11 perceived sufficiency of Rite Aid's suspicious 12 order monitoring processes? 13 MS. McENROE: Objection to form. 14 THE WITNESS: After we had the 15 meetings -- the meeting, and everybody 16 came together, everyone was overly 17 confident that our suspicious order 18 monitoring program was adequate and met 19 DEA rule and regulation. The idea was 20 again to put everything together in one 21 space and in one document to be able to 22 provide for the DEA. There were no -- 23 from Kevin to Andy to Maggie to myself, 24 there were no changes at that time that</p>



<p style="text-align: right;">Page 90</p> <p>1 were noted to be made to the suspicious 2 order monitoring program, just to put it 3 into a format that could be provided to 4 governmental agencies when needed. 5 BY MR. PIFKO: 6 Q. Did anyone write down anything 7 after that meeting stating that they were 8 satisfied with Rite Aid's procedures? 9 MS. McENROE: Objection to form. 10 THE WITNESS: I don't know that 11 anyone said that they were satisfied with 12 it. There were communications from Kevin 13 asking to -- for Maggie to put it in so 14 that they could get it to distribution 15 centers, but I don't know that there was 16 anything that said everybody signed off 17 at the meeting. 18 BY MR. PIFKO: 19 Q. Are there any other features of 20 Rite Aid's procedures with respect to identifying 21 suspicious orders? 22 MS. McENROE: Objection to form. 23 THE WITNESS: Sure. There is an 24 asset protection side of our suspicious</p>	<p style="text-align: right;">Page 92</p> <p>1 mentioned the asset protection aspects? 2 A. Correct. 3 Q. When you say those are the three 4 components, that's what you were referring to? 5 A. Yes. 6 Q. Let's talk about the thresholds 7 for a moment. 8 So I want to talk about how they 9 work. 10 So every store, except for the 11 less than a dozen that you mentioned, has a limit 12 of 5,000 dosage units per NDC per order. 13 Correct? 14 A. Correct. 15 Q. And how is that limitation 16 implemented? 17 A. It is implemented by the pickers 18 in the distribution centers. 19 Q. How specifically does that occur? 20 A. In the distribution center, when 21 an item is lit up to be picked, there's a device 22 called the pick -- Pick-to-Light and it lights up 23 and there's a quantity of the item to be picked. 24 When it lights up, it will say the number of</p>
<p style="text-align: right;">Page 91</p> <p>1 order monitoring program which has a 2 number of KPIs which look at cycle counts 3 down, which look at ordering 4 abnormalities. So there are part of the 5 asset protection, part of the suspicious 6 order monitoring. And that can lead to 7 investigations into stores, into theft, 8 diversion, whatever it may be. 9 BY MR. PIFKO: 10 Q. But you testified earlier that 11 that system was never used to identify and report 12 a suspicious order. Correct? 13 MS. McENROE: Objection to form. 14 THE WITNESS: I did. 15 BY MR. PIFKO: 16 Q. Any other systems in place that 17 Rite Aid had to identify, report and halt the 18 shipment of suspicious orders? 19 MS. McENROE: Objection to form. 20 THE WITNESS: Those were the 21 major three components. 22 BY MR. PIFKO: 23 Q. So to be clear, we talked about 24 the thresholds, the algorithm and then you</p>	<p style="text-align: right;">Page 93</p> <p>1 packages to be picked. 2 If the picker sees, say, it's a 3 bottle of 100, 53 packages to be picked, they 4 will set -- they won't pick the item and they 5 will immediately report it to their supervisor. 6 Q. So an order is placed that 7 exceeds the threshold, the picker sees that on 8 the lighting system? 9 A. Pick-to-Light, yes. 10 Q. So the lighting system identifies 11 that it exceeds the threshold or the picker does? 12 MS. McENROE: Objection to form. 13 THE WITNESS: The picker does. 14 BY MR. PIFKO: 15 Q. So the pickers know that there's 16 this 5,000 dosage unit per NDC per order 17 requirement? 18 A. The pickers are very well versed 19 in the threshold, yes. 20 Q. Is there documentation that 21 they're provided with that tells them about that 22 threshold? 23 A. Each of the pickers has an 24 attestation that they understand the 5,000 dosage</p>

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1 unit limit.

2 Q. What do you mean by dosage unit?

3 A. A tablet, a capsule, any

4 individual dose.

5 Q. Okay. So the picker has to look

6 and see if it's 10 bottles of 50, they have to

7 make that calculation?

8 A. Yes. They make that calculation.

9 Pharmacy packages are typically bottles of 100 or

10 bottles of 500 or bottles of 1,000. So it's a

11 simple calculation. There's not half bottles or

12 anything along those lines. It's typically 100,

13 500 and 1,000.

14 Q. Is there any automation that

15 makes that calculation for them?

16 MS. McENROE: Objection to form.

17 THE WITNESS: From the

18 Pick-to-Light, there's not.

19 BY MR. PIFKO:

20 Q. So an order comes in and they --

21 if it says six bottles of 1,000, that exceeds the

22 threshold. Correct?

23 MS. McENROE: Objection to form.

24 THE WITNESS: Correct.

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1 BY MR. PIFKO:

2 Q. And then if it exceeds the

3 threshold, they have to call their supervisor?

4 A. They do.

5 Q. What do they do when they call

6 their supervisor?

7 A. The supervisor comes over, stops

8 the pick and then investigates the order to

9 determine, was it an auto ship order, what was

10 the nature of the order.

11 And at that particular time, they

12 would short the order to the 5,000 threshold and

13 then inquire from the store, if it wasn't an auto

14 replenishment order, why they ordered the

15 additional bottle.

16 Q. So let's break that process out a

17 little bit.

18 You said the supervisor comes

19 over and looks at the order.

20 How do they tell if it's an auto

21 ship order?

22 A. There is -- once they realize the

23 drug in that, there is a terminal in the

24 distribution center in the cage. They can go to

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1 a computer and determine if the order was on a

2 replenishment and an auto ship or not.

3 Q. And we talked earlier about

4 manually overriding by the pharmacist.

5 Do you recall that?

6 A. I do.

7 Q. Is that what you're

8 distinguishing between a manual override and an

9 order that's not -- that has no manual overrides?

10 A. Yes.

11 Q. How does the supervisor see that

12 on a computer screen?

13 A. You can identify the particular

14 drug. And it would say what your projected order

15 was.

16 So let's say that we took those

17 6,000 dosage units that you were discussing, they

18 would be able to see that the auto generated

19 order was six bottles to know that that was the

20 case.

21 Q. And if the pharmacist manually

22 overrides it, then there's something they can see

23 on there that shows that the amount is different

24 than what the auto replenishment system would

Page 97

1 have placed?

2 A. That is correct. I believe

3 some -- one of the exhibits that we discussed

4 yesterday had a screenshot of a suggested order

5 and where you could see what the suggested order

6 was, when we were discussing 3151.

7 Q. And so where it says suggested

8 order, that's what the auto replenishment system

9 would order?

10 A. That is correct.

11 Q. And so if it's an auto

12 replenishment system order, what is the

13 supervisor supposed to do?

14 A. The supervisor -- the order is

15 still cut to the normal -- to the 5,000

16 threshold. And at that point, the supervisor

17 would reach out and contact the pharmacy to

18 determine, did they need the 6,000 dosage units

19 and if they did, what was the reason. And if

20 they -- if it continued to go above what the

21 threshold was, how they could get an increase to

22 their threshold.

23 Q. Is the order filled before that

24 conversation occurs?

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1 MS. McENROE: Objection to form.  
2 THE WITNESS: The order is  
3 reduced to the 5,000, yes. And the  
4 conversation can occur after the order is  
5 reduced.  
6 BY MR. PIFKO:  
7 Q. Is there any documentation of  
8 this conversation that occurs?  
9 A. There is documentation in the  
10 controlled drug cage.  
11 Q. Is there a name of a form or a  
12 logbook or something where they write down  
13 anything about the conversation?  
14 A. There is a log, yes.  
15 Q. What's it called?  
16 A. Let me look.  
17 Q. And when you get to what you're  
18 looking at, please identify the Bates number.  
19 A. I'm going to flip through,  
20 because I'm not finding what I wanted to see.  
21 Q. What specifically are you looking  
22 for?  
23 A. There is a threshold log that is  
24 created at the distribution centers that would

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1 identify who was called on what date and what  
2 their response was.  
3 Q. And when you're looking through  
4 that binder -- I assume you've looked at all the  
5 materials in the binder. Correct?  
6 A. I have.  
7 Q. Are you looking for an example of  
8 a threshold log, or are you looking for a policy  
9 that discusses it?  
10 A. I'm looking for an example of a  
11 threshold log. And it is called the Controlled  
12 Drug Above Average Order Monitoring Log.  
13 Q. And that's the document that --  
14 where the supervisor notates any conversation  
15 they may have had with the pharmacist?  
16 A. That is correct.  
17 Q. Is there any other place where  
18 they would note their discussion?  
19 A. This is the primary document  
20 where they would note their discussion.  
21 Q. You said primary.  
22 Is there a secondary document?  
23 A. They may have an Excel  
24 spreadsheet that they would create a log as well,

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1 but this is the hands-on log in the cage.  
2 Q. So any notes of any discussion  
3 would be contained in that log?  
4 A. Yes.  
5 Q. What happens to that log after  
6 it's -- where do they keep their log?  
7 MS. McENROE: Objection to form.  
8 THE WITNESS: They keep the log  
9 in the controlled drug cage with the  
10 other DEA records.  
11 BY MR. PIFKO:  
12 Q. Do they send it to anyone with  
13 some frequency?  
14 A. This log, they may send it to  
15 myself or Kevin Mitchell or Chris Belli for  
16 review as well.  
17 Q. They may, but they're not  
18 required to do so?  
19 MS. McENROE: Objection to form.  
20 THE WITNESS: They're not  
21 required to do so.  
22 BY MR. PIFKO:  
23 Q. So they would call the pharmacist  
24 to ask if they -- in a situation where the order

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1 exceeds the threshold, they would call the  
2 pharmacist and ask if that was -- they intended  
3 to place that order. Correct?  
4 A. That is correct.  
5 Q. But regardless of what the  
6 pharmacist says, the order is cut to threshold?  
7 MS. McENROE: Objection to form.  
8 THE WITNESS: That is correct.  
9 BY MR. PIFKO:  
10 Q. And that may be shipped before  
11 that conversation occurs. Correct?  
12 A. That is also correct.  
13 The number on the log that I'm  
14 looking at, do you want that?  
15 Q. Oh, yes. Thank you.  
16 A. Okay. Rite\_Aid\_OMDL\_0024039.  
17 Q. Is there any other discussion  
18 that occurs in the situation where an order  
19 exceeds the threshold?  
20 MS. McENROE: Objection to form.  
21 THE WITNESS: The discussion is  
22 at the distribution center when the order  
23 is -- to the best of my knowledge, no.  
24 BY MR. PIFKO:

<p style="text-align: right;">Page 102</p> <p>1 Q. So other than calling the 2 pharmacist to ask if they intended to place that 3 order, there is no other discussion. Correct? 4 A. If they're -- part of the policy 5 is if there was an order that there was deemed to 6 be suspicious, part of the policy then is to 7 contact government affairs, myself, to 8 investigate and determine if there was any 9 suspicion or diversion or anything. 10 Q. But that's never happened. 11 Correct? 12 A. It has not. 13 Q. No one has ever called you and 14 said an order is potentially suspicious? 15 MS. McENROE: Objection to form. 16 THE WITNESS: They have not. 17 BY MR. PIFKO: 18 Q. So other than this conversation 19 with the pharmacist, is there anything else that 20 happens? 21 MS. McENROE: Objection to form. 22 THE WITNESS: After the 23 conversation with the pharmacist, and if 24 the pharmacist deems that it's necessary,</p>	<p style="text-align: right;">Page 104</p> <p>1 documentation of the call. 2 BY MR. PIFKO: 3 Q. That's the only documentation of 4 any investigation that may be conducted. 5 Correct? 6 MS. McENROE: Objection to form. 7 THE WITNESS: Yes. The log is 8 the documentation. 9 BY MR. PIFKO: 10 Q. So let's talk about the override 11 or threshold increase. 12 Can the -- is it possible to make 13 a one-time override? 14 MS. McENROE: Objection to form. 15 THE WITNESS: I don't know that 16 it's ever been done, but it could be 17 possible for someone to call me and ask 18 for a one-time override. And yes, it 19 could be done. 20 BY MR. PIFKO: 21 Q. But to your knowledge, that's 22 never happened? 23 A. No. 24 Q. So when you mentioned that</p>
<p style="text-align: right;">Page 103</p> <p>1 that they need the additional product to 2 service their patients and meet their 3 patients' healthcare needs, then they can 4 reach out to their pharmacy district 5 manager who, at that term will determine, 6 yes, there is a valid need to increase 7 the threshold. And then ask me to 8 complete a threshold override so that 9 they can go above the 5,000 dosage units 10 based on valid patient need. 11 BY MR. PIFKO: 12 Q. Let's hold on to that for a 13 second. 14 Other than making a request to 15 increase the threshold, is there any other 16 discussion that occurs? 17 MS. McENROE: Objection to form. 18 THE WITNESS: There is not. 19 BY MR. PIFKO: 20 Q. And there's -- other than writing 21 down this log, there is no other documentation 22 that's made. Correct? 23 MS. McENROE: Objection to form. 24 THE WITNESS: The log is the</p>	<p style="text-align: right;">Page 105</p> <p>1 someone could ask for a threshold increase, that 2 would be a permanent increase for that location. 3 Correct? 4 MS. McENROE: Objection to form. 5 THE WITNESS: That would be an 6 increase that would be put in place and 7 then monitored routinely to make sure 8 that the usage and the reason for the 9 override would occur. 10 I would foresee a one-time 11 threshold override if there was a store 12 that had a night burglary and all of the 13 products were stolen from the store. So 14 obviously you would need to get product 15 into that store. So there may be the 16 potential for an override in situations 17 like that. 18 BY MR. PIFKO: 19 Q. Do you recall that ever 20 occurring? 21 A. There are night break-ins, yes. 22 I don't recall ever doing a threshold override, 23 but we do have night break-ins and armed 24 robberies, yes.</p>



<p style="text-align: right;">Page 106</p> <p>1 Q. In situations where an order is  2 placed to fill product that's been stolen in an  3 overnight robbery, is there any -- other than  4 reporting theft to the DEA, is there any  5 reporting of that order being potentially  6 suspicious?</p> <p>7 MS. McENROE: Objection to form.  8 THE WITNESS: There is not.  9 BY MR. PIFKO:</p> <p>10 Q. So then when we're talking about  11 this override of the threshold, the store can  12 then request that their threshold be increased?</p> <p>13 A. If it was a one-time threshold,  14 typically the pharmacy district manager would  15 make a call and ask for it because of the  16 extenuating circumstance.</p> <p>17 Q. But we talked this, there's never  18 been to your knowledge a one-time increase?</p> <p>19 A. To the best of my knowledge, no.</p> <p>20 Q. So if after this call -- so you  21 said that on the call, the supervisor asked the  22 pharmacist if they intended to place that order.  23 Correct?</p> <p>24 MS. McENROE: Objection to form.</p>	<p style="text-align: right;">Page 108</p> <p>1 organizational structure of your department.  2 Correct?</p> <p>3 A. I did.</p> <p>4 Q. Is there any sort of  5 suborganizational structure of people who would  6 just deal with threshold increases?</p> <p>7 A. From the distribution center,  8 when we distributed, there was myself and Andrea  9 Bucher.</p> <p>10 Q. So only the two of you would have  11 been the only people who would deal with  12 threshold increases?</p> <p>13 A. I'm thinking of the time frame of  14 when individuals entered the department. There  15 is the possibility that another member of my  16 team, Amy Knisely, may have looked at thresholds  17 as well.</p> <p>18 Q. Anyone else?</p> <p>19 A. No.</p> <p>20 Q. So you, Andrea Bucher or Amy  21 Knisely would be the only people that would have  22 evaluated a threshold increase request?</p> <p>23 A. Yes.</p> <p>24 Q. Is there a document that has to</p>
<p style="text-align: right;">Page 107</p> <p>1 THE WITNESS: Correct.  2 BY MR. PIFKO:</p> <p>3 Q. And then if they say yes, the  4 next thing that the supervisor tells them is  5 how -- the process that they can go through to  6 get their threshold increased. Correct?</p> <p>7 MS. McENROE: Objection to form.  8 THE WITNESS: That is correct.  9 BY MR. PIFKO:</p> <p>10 Q. And so what is the process then  11 that a store would undertake to get a threshold  12 increase?</p> <p>13 A. At that particular time, the  14 store would reach out to their pharmacy district  15 manager or immediate supervisor and say, my order  16 has been cut back. I can't service my patients.  17 Please seek a threshold increase on hydrocodone  18 for my particular store. And then the pharmacy  19 district manager would send that increase request  20 to myself or a member of my team.</p> <p>21 Q. Is there a name for that team?</p> <p>22 A. Regulatory compliance, government  23 affairs. It's both one and the same.</p> <p>24 Q. So you talked yesterday about the</p>	<p style="text-align: right;">Page 109</p> <p>1 be created to get requests to threshold increase?  2 MS. McENROE: Objection to form.  3 THE WITNESS: There is no  4 document, just an email with the reason  5 why the increase is needed and -- on an  6 email.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. So the district manager sends an  9 email to you or one of the members of your team?</p> <p>10 A. They do.</p> <p>11 Q. Can the pharmacist go directly to  12 you?</p> <p>13 A. If the pharmacists come directly  14 to us, we reroute it to the pharmacy district  15 manager in order to make sure that they're aware  16 that there's a request in for them to say, yes,  17 please look at the request.</p> <p>18 MS. McENROE: Mark, we've been  19 going for about an hour, so whenever is a  20 good time for a break.</p> <p>21 MR. PIFKO: Okay.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. The district manager has to  24 approve sending the request to you and your team?</p>



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1 A. Yes.

2 Q. And even if a pharmacist makes it

3 directly, you then back route it to the district

4 manager to make sure that they would approve it

5 first?

6 A. Sure. I would -- I could make a

7 phone call to the pharmacy district manager and

8 say, hey, we have a request that came in from

9 your store 1234, you know, do you want us to work

10 on it or look at it. And they would say yes or

11 no once they determined if it was needed or not.

12 But yes.

13 Q. We'll take a break in just a

14 moment, but I want to ask you, are there any

15 criteria or attributes of the pharmacy that you

16 look for when you're evaluating a threshold

17 increase?

18 MS. McENROE: Objection to form.

19 THE WITNESS: For a threshold

20 increase, we look at usage from the

21 store, the order history, the suggested

22 order and an average of the monthly

23 dispensings of that particular drug for

24 the store.

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1 BY MR. PIFKO:

2 Q. When they make the request to

3 you, though, do they have to provide any specific

4 type of information in the email request?

5 A. Sometimes they do and sometimes

6 they don't. Sometimes they would say, a new

7 clinic opened down the street, depending on the

8 request that came in.

9 Q. But my question was different.

10 Are they required to provide

11 certain types of information in the email making

12 the request to you?

13 A. They are not required to put it

14 in the email, but that does not mean that we

15 don't follow up and get the extenuating

16 circumstance of why they're asking for the

17 increase.

18 Q. So the only thing that's required

19 is that they tell you that they want the

20 increase?

21 MS. McENROE: Objection to form.

22 THE WITNESS: In the email, yes.

23 But there would be follow-up with them.

24 BY MR. PIFKO:

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1 Q. Okay. And so then upon receiving

2 that, you would then look at the data for that

3 pharmacy as you just testified a few minutes ago?

4 A. We would. Similar to what we

5 looked at yesterday for 3151.

6 MR. PIFKO: Okay. We can take a

7 break.

8 MS. McENROE: Okay.

9 THE VIDEOGRAPHER: Going off the

10 record at 11:35 a.m.

11 - - -

12 (A recess was taken from

13 11:35 a.m. to 11:53 a.m.)

14 - - -

15 THE VIDEOGRAPHER: We're back on

16 the record at 11:53 a.m.

17 BY MR. PIFKO:

18 Q. I want to ask you some questions.

19 You brought a binder with you

20 today. Correct?

21 A. I did.

22 Q. Can you describe for the record

23 what that binder is?

24 A. Sure. It was documents that I

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1 asked counsel to put together and make copies of

2 for me as part of my testimony, or depositions so

3 that I could refer to them.

4 Q. I'm handing you what's marked as

5 Exhibit 4.

6 - - -

7 (Deposition Exhibit No.

8 Hart-30(b)(6)-4, Index of Binder, was

9 marked for identification.)

10 - - -

11 BY MR. PIFKO:

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

Page 114

[REDACTED]

Page 116

[REDACTED]

Page 115

[REDACTED]

Page 117

[REDACTED]

6 Q. Did you review all these

7 documents prior to today's deposition?

8 A. I did.

9 Q. Did you review any other

10 documents prior to today's deposition, beyond

11 what's in this -- that binder?

12 A. I did.

13 Q. What was the basis for reviewing

14 the other documents that you reviewed other than

15 the ones that are in the binder?

16 MS. McENROE: Objection. I just

17 want to caution the witness in terms of

18 not revealing substance discussed with

19 counsel, to avoid divulging any verbally,

20 of course, privileged information.

21 Can you restate the question?

22 Just so I make sure I understand how it's

23 not asking for privileged information.

24 BY MR. PIFKO:

<p style="text-align: right;">Page 118</p> <p>1 Q. Yeah.</p> <p>2 So you reviewed the documents in</p> <p>3 the binder to prepare for the deposition.</p> <p>4 Correct?</p> <p>5 A. Correct.</p> <p>6 Q. And you reviewed other documents</p> <p>7 that aren't in the binder to prepare for the</p> <p>8 deposition; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. When did you review the</p> <p>11 other documents that weren't in the binder?</p> <p>12 A. When I met with counsel to</p> <p>13 prepare.</p> <p>14 Q. Okay. It's like a two-inch</p> <p>15 binder that you have in front of you.</p> <p>16 It's basically full. Agreed?</p> <p>17 A. Yes.</p> <p>18 Q. And is it double-sided?</p> <p>19 A. Yes.</p> <p>20 Q. The volume of documents that you</p> <p>21 reviewed that's not in the binder, how does that</p> <p>22 compare to the volume of documents that's in the</p> <p>23 binder?</p> <p>24 MS. McENROE: Objection to form.</p>	<p style="text-align: right;">Page 120</p> <p>1 THE WITNESS: I believe all the</p> <p>2 documents that I reviewed were provided.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. How did you decide what documents</p> <p>5 that you wanted to review?</p> <p>6 A. I looked at the importance of the</p> <p>7 documents and what I might make part of my</p> <p>8 deposition. And picked some of the positives or</p> <p>9 like in the analytics part of it, the algorithms.</p> <p>10 I'm not an algorithm person, so I wanted to have</p> <p>11 something in front of me to be able to review.</p> <p>12 Q. Did you speak to anyone other</p> <p>13 than counsel to prepare for the deposition?</p> <p>14 A. Today or previously?</p> <p>15 Q. At any time.</p> <p>16 A. I have.</p> <p>17 Q. Okay. Who did you speak with?</p> <p>18 A. I spoke with Marcia Brumbaugh,</p> <p>19 who is in our IT department. Charlie Miller,</p> <p>20 Andy Palmer, Ron Chima.</p> <p>21 I'm trying to think.</p> <p>22 Those are the people within the</p> <p>23 corporation that I spoke to, or with or former.</p> <p>24 Q. How long did you speak to Marcia?</p>
<p style="text-align: right;">Page 119</p> <p>1 THE WITNESS: Many more documents</p> <p>2 were reviewed aside from this -- these</p> <p>3 27.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. So you would say there's a lot</p> <p>6 more documents that you reviewed to prepare for</p> <p>7 the deposition that aren't in the binder.</p> <p>8 Correct?</p> <p>9 A. There were.</p> <p>10 Q. You just went through the</p> <p>11 exercise of reading all those numbers. As we</p> <p>12 discussed, those are Bates numbers.</p> <p>13 Do you believe that all the</p> <p>14 documents that you reviewed to prepare for the</p> <p>15 deposition had those kinds of numbers on them?</p> <p>16 A. I believe so, yes.</p> <p>17 Q. Do you know if there's any</p> <p>18 documents that you reviewed to prepare for the</p> <p>19 deposition that were not provided to the</p> <p>20 plaintiffs in the litigation?</p> <p>21 MS. McENROE: What he means by</p> <p>22 that is, if it has a Bates number, that</p> <p>23 it would be provided to plaintiffs in the</p> <p>24 litigation.</p>	<p style="text-align: right;">Page 121</p> <p>1 A. I believe it was about an</p> <p>2 hour-and-a-half.</p> <p>3 Q. Did you have more than one</p> <p>4 conversation with her?</p> <p>5 A. I had one conversation with her.</p> <p>6 Q. What did you discuss with her to</p> <p>7 prepare for the deposition?</p> <p>8 MS. McENROE: Objection. I just</p> <p>9 want to interject. To the extent counsel</p> <p>10 was involved, that you shouldn't discuss</p> <p>11 the substance as privileged.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. PIFKO: Well, preparations</p> <p>14 for a 30(b)(6) are not -- if she's trying</p> <p>15 to inform herself, they're not</p> <p>16 privileged.</p> <p>17 MS. McENROE: On the underlying</p> <p>18 facts, I agree with you. I just want to</p> <p>19 make sure that any of the substance that</p> <p>20 could have been discussed at the</p> <p>21 direction of counsel or with input from</p> <p>22 counsel is not divulged inadvertently.</p> <p>23 THE WITNESS: Can you repeat the</p> <p>24 question?</p>

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1 BY MR. PIFKO:  
 2 Q. Yeah.  
 3 I just want to know -- okay.  
 4 So you had one conversation with  
 5 Marcia to prepare for the deposition. Correct?  
 6 A. I did.  
 7 Q. Okay. And my question is, and  
 8 you said that you spoke to her for about an  
 9 hour-and-a-half. Correct?  
 10 A. That is correct.  
 11 Q. Sorry. You need to give an  
 12 audible response.  
 13 Did you speak to her in person or  
 14 on the phone?  
 15 A. In person.  
 16 Q. Who else was present at that  
 17 meeting?  
 18 A. Counsel.  
 19 Q. Anyone else?  
 20 A. That was it.  
 21 Q. Okay. And for purposes of  
 22 preparing of the deposition, what did you discuss  
 23 with her?  
 24 A. We discussed the algorithm.

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1 Q. Anything else?  
 2 A. That was primarily it.  
 3 Q. What's Marcia's background?  
 4 A. She is in our information -- IT  
 5 department.  
 6 Q. Does she have knowledge about the  
 7 algorithm?  
 8 A. She does.  
 9 Q. Did she have any role in  
 10 designing it?  
 11 A. I don't know that.  
 12 Q. Do you know how long she's been  
 13 with the company?  
 14 A. I'm going to say at least 15  
 15 years.  
 16 Q. Do you know if Marcia had any  
 17 role in modifying the algorithm at any time?  
 18 A. I don't know that.  
 19 Q. Okay. For purposes of preparing  
 20 for the deposition, what did Marcia tell you  
 21 about the algorithm?  
 22 A. We went over the document on the  
 23 algorithm that was involved in here, just to give  
 24 an overview of the algorithm.

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1 Q. And which tab was that?  
 2 A. Let me look.  
 3 That would be 7 and 8.  
 4 [REDACTED]  
 5 [REDACTED]  
 6 [REDACTED]  
 7 [REDACTED]  
 8 [REDACTED]  
 9 [REDACTED]  
 10 [REDACTED]  
 11 [REDACTED]  
 12 [REDACTED]  
 13 [REDACTED]  
 14 [REDACTED]  
 15 Q. You also spoke to Charlie Miller?  
 16 A. I did.  
 17 Q. Who is Charlie Miller?  
 18 A. Charlie Miller is a pharmacist  
 19 for Rite Aid at present.  
 20 Q. Where is he based?  
 21 A. He is in Pennsylvania.  
 22 Q. Does he work for a specific  
 23 store?  
 24 A. Yes, he's a pharmacist in a

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1 store. I don't know the location.  
 2 Q. Somewhere in Pennsylvania?  
 3 A. Yes.  
 4 Q. In Philadelphia, or you don't  
 5 know that?  
 6 A. I think closer to York.  
 7 Q. And what did you speak with Mr.  
 8 Miller to prepare for the deposition about?  
 9 MS. McENROE: Same objection,  
 10 same instruction, in terms of any  
 11 involvement of counsel, stay away from  
 12 any of that sort of privileged  
 13 discussion. But for the underlying  
 14 facts, so long as you're not divulging  
 15 privileged information, you may answer.  
 16 [REDACTED]  
 17 [REDACTED]  
 18 [REDACTED]  
 19 [REDACTED]  
 20 [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED]  
 23 [REDACTED]  
 24 [REDACTED]

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

6 Q. So you spoke to him on the phone?

7 A. Yes.

8 Q. Less than 20 minutes?

9 A. Yes.

10 Q. Less than five minutes?

11 A. Yes.

12 Q. Andy Palmer, you spoke to him to

13 prepare for the deposition?

14 A. I did.

15 Q. How many times did you speak with

16 him?

17 A. Twice.

18 Q. Were those in person or on the

19 phone?

20 A. They were in person.

21 Q. When was the first time that you

22 spoke to Andy?

23 A. Two to three weeks ago.

24 Q. When was the second time you

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1 spoke to him?

2 A. Within the last week or two.

3 Q. The first conversation that you

4 had with him, how long was that?

5 A. A few hours.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

20 BY MR. PIFKO:

21 Q. Anything else?

22 A. That was primarily that.

23 Q. Did you review any documents with

24 him to have that discussion?

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1 A. We did review some documents.

2 Q. What documents did you review?

3 A. Some Above Average logs.

4 Q. Anything else?

5 A. That was primarily it.

6 Q. Are you aware that Andy Palmer

7 was deposited in this case?

8 A. I am.

9 Q. Did you review his deposition

10 transcripts to prepare for this deposition?

11 A. I did not review Andy's

12 transcripts.

13 Q. Did you review any deposition

14 transcripts to prepare for this deposition?

15 A. I reviewed Chris Belli's

16 transcript, Rick Chapman's transcript and part of

17 Andrea Bucher's transcript.

18 Q. Only part of Andrea's transcript?

19 A. Yes.

20 Q. What part of her transcript did

21 you review?

22 A. I briefly read through

23 approximately the first half of it and then that

24 was it.

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1 Q. Why was is it that you only

2 looked at the first half?

3 A. I simply didn't have enough time.

4 Q. What did you learn from reviewing

5 her transcript?

6 MS. McENROE: Objection to form.

7 THE WITNESS: When she was --

8 MS. McENROE: You can answer.

9 THE WITNESS: What she was asked

10 questions about, similar to what I was

11 asked questions about.

12 BY MR. PIFKO:

13 Q. So then you said you met with

14 Andy Palmer again in the last week or so?

15 A. Yes.

16 Q. How long was that meeting?

17 A. An hour, an hour-and-a-half.

18 Q. What did you discuss during that

19 meeting?

20 MS. McENROE: Same objection and

21 same instruction with respect to not

22 divulging privileged communications. But

23 to the extent that you learned facts that

24 you're testifying about here today, you



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[illegible]

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5 Q. Did you discuss anything else  
6 with Mr. Palmer in the second meeting?  
7 MS. McENROE: Same instruction  
8 with respect to privilege.  
9 You may answer.  
10 THE WITNESS: Not that I  
11 remember, no.  
12 BY MR. PIFKO:  
13 Q. How about Ron Chima, what did  
14 you --  
15 MS. McENROE: Go ahead.  
16 BY MR. PIFKO:  
17 Q. What did you discuss with Mr.  
18 Chima?  
19 MS. McENROE: I'm going to object  
20 and instruct the witness not to answer.  
21 Mr. Chima is in-house counsel for Rite  
22 Aid, and so I -- I have given you some  
23 leeway with respect to the underlying  
24 fact witnesses, but I'm sorry that I

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Response	Percentage
U.S. should take action	85%
U.S. should not take action	15%

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1 can't do the same with respect to Mr.  
2 Chima.  
3 BY MR. PIFKO:  
4 Q. Did you discuss any facts that  
5 you needed to know to serve as the 30(b)(6)  
6 witness with Mr. Chima?  
7 MS. McENROE: That's just a yes  
8 or no.  
9 THE WITNESS: I did not discuss  
10 any facts.  
11 BY MR. PIFKO:  
12 Q. How long did you meet with Mr.  
13 Chima?  
14 A. Not long at all. I would -- you  
15 know, a short meeting. Not even a meeting, a  
16 conversation.  
17 MS. McENROE: Okay.  
18 BY MR. PIFKO:  
19 Q. Was that in person?  
20 MS. McENROE: You may answer that  
21 question.  
22 THE WITNESS: Yes.  
23 BY MR. PIFKO:  
24 Q. When was that?

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1 A. Way back when the whole process  
2 started.  
3 Q. So a few months ago?  
4 A. Yes.  
5 Q. On or around the time that you  
6 first saw the notices?  
7 A. Yes.  
8 MR. PIFKO: Why don't take a --  
9 it looks like it's 12:20, we'll take a  
10 lunch break.  
11 MS. McENROE: Sure.  
12 THE VIDEOGRAPHER: Going off the  
13 record at 12:16 p.m.  
14 - - -  
15 (A recess was taken from  
16 12:16 p.m. to 1:10 p.m.)  
17 - - -  
18 THE VIDEOGRAPHER: Back on the  
19 record at 1:10 p.m.  
20 BY MR. PIFKO:  
21 Q. Welcome back.  
22 A. You too.  
23 Q. Before the break, we were talking  
24 about threshold increases.

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1 Do you recall that?  
2 A. I do.  
3 - - -  
4 (Deposition Exhibit No.  
5 Hart-30(b)(6)-5, Email chain, top one  
6 dated 16 Sep 2011, Bates stamped  
7 MCKMDL00632923 through MCKMDL00632925,  
8 was marked for identification.)  
9 - - -  
10 BY MR. PIFKO:  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

Page 136

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

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1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

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[REDACTED]

Page 140

[REDACTED]

Page 139

[REDACTED]

Page 141

[REDACTED]

Page 142

[REDACTED]

Page 144

[REDACTED]

Page 143

[REDACTED]

Page 145

[REDACTED]

8 MS. McENROE: Objection to form.

9 And again, you already elicited the

10 testimony that Rite Aid did not consider

11 the McKesson thresholds to be part of the

12 suspicious order monitoring.

13 MR. PIFKO: You're giving a

14 speaking objection. You can't do that.

15 You've got to stop --

16 MS. McENROE: You said I could

17 have 10 seconds. And you're going far

18 beyond --

19 MR. PIFKO: No, no. I didn't say

20 you could have 10 seconds. You can

21 object to scope and that's it. You're

22 coaching the witness. You need to stop.

23 MS. McENROE: I'm not coaching

24 the witness. I'm trying to speak to you.

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[illegible]

Page 149

A horizontal bar chart titled "U.S. should take action to address climate change." The y-axis lists age groups: 18-29, 30-49, 50-64, 65+, and "Don't know." The x-axis represents the percentage of respondents, ranging from 0% to 100% in 10% increments. For each age group, there are two bars: a blue bar for "Men" and an orange bar for "Women." The data shows that younger age groups are more likely to believe the U.S. should take action, with 18-29 year olds at 92% and 65+ year olds at 78%. The gender gap is most pronounced in the 18-29 age group, where 92% of men and 96% of women believe in taking action. In the 65+ age group, 78% of men and 82% of women believe in taking action. The "Don't know" category shows 52% for men and 58% for women.

Age Group	Men (%)	Women (%)
18-29	92	96
30-49	88	90
50-64	82	84
65+	78	82
Don't know	52	58



Page 150

[REDACTED]

Page 152

[REDACTED]

Page 151

[REDACTED]

Page 153

[REDACTED]

Page 154

[REDACTED]

Page 156

[REDACTED]

Page 155

[REDACTED]

Page 157

[REDACTED]

3 BY MR. PIFKO:

4 Q. Have you heard of the concept

5 "the holy trinity"?

6 MS. McENROE: Objection to form,

7 objection to scope.

8 THE WITNESS: I have.

9 BY MR. PIFKO:

10 Q. What does that mean to you?

11 A. The holy trinity is an opioid, a

12 benzodiazepam -- benzodiazepine and a muscle

13 relaxant prescribed for a person at one time.

14 Q. Is that a red flag?

15 MS. McENROE: Objection to form,

16 objection to scope.

17 THE WITNESS: The trinity is a

18 red flag, yes.

19 BY MR. PIFKO:

20 Q. And why is that a red flag?

21 MS. McENROE: Objection to form,

22 objection to scope.

23 THE WITNESS: The DEA has come

24 out and stated that there should be no

<p style="text-align: right;">Page 158</p> <p>1 reason why a prescriber should prescribe</p> <p>2 those three medications for one patient</p> <p>3 at one time.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Would you also look at the nature</p> <p>6 of the patients when you ran some of this</p> <p>7 prescriber level analysis?</p> <p>8 MS. McENROE: Objection to form,</p> <p>9 objection to scope.</p> <p>10 THE WITNESS: We would look at</p> <p>11 patients if one -- when we ran our</p> <p>12 analysis, if one patient stood out, we</p> <p>13 would look at a particular patient, yes.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Would you look at the actual</p> <p>16 scripts that were written?</p> <p>17 MS. McENROE: Objection to form,</p> <p>18 objection to scope.</p> <p>19 THE WITNESS: We would look at</p> <p>20 original scripts as well.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Would you look at the conditions</p> <p>23 for which the prescription was being written?</p> <p>24 MS. McENROE: Objection to form,</p>	<p style="text-align: right;">Page 160</p> <p>1 THE WITNESS: We would look at</p> <p>2 the patient profile and look at the type</p> <p>3 of the prescriber and review it.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Would you look at the physical</p> <p>6 location of the prescriber in relationship to the</p> <p>7 patient?</p> <p>8 MS. McENROE: Objection to form,</p> <p>9 objection to scope.</p> <p>10 THE WITNESS: We could look at</p> <p>11 that, yes.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. You would agree that one red flag</p> <p>14 is if you have patients from out of the area</p> <p>15 filling a prescription, that could be a red flag?</p> <p>16 MS. McENROE: Objection to form,</p> <p>17 objection to scope.</p> <p>18 THE WITNESS: Patients traveling</p> <p>19 distance to get a prescription filled</p> <p>20 could be a red flag or it may not be a</p> <p>21 red flag.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Would you agree that -- in what</p> <p>24 situation would it be a red flag?</p>
<p style="text-align: right;">Page 159</p> <p>1 objection to scope.</p> <p>2 THE WITNESS: We would look if</p> <p>3 there was a description.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Okay. But you wouldn't -- what</p> <p>6 would you do -- if there was a description, what</p> <p>7 would you do with that information?</p> <p>8 MS. McENROE: Objection to form,</p> <p>9 objection to scope.</p> <p>10 THE WITNESS: It would remain on</p> <p>11 the prescription.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. But would you look if there</p> <p>14 was -- a prescription was being written for a</p> <p>15 medication that the reason on the prescription</p> <p>16 seemed unusual to you?</p> <p>17 MS. McENROE: Objection to form,</p> <p>18 objection to scope.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. And what would you do with that</p> <p>22 information?</p> <p>23 MS. McENROE: Objection to form,</p> <p>24 objection to scope.</p>	<p style="text-align: right;">Page 161</p> <p>1 MS. McENROE: Objection to form,</p> <p>2 objection to scope.</p> <p>3 THE WITNESS: It could possibly</p> <p>4 be a red flag if a patient lived two</p> <p>5 hours away from a pharmacy and drove by</p> <p>6 two other pharmacies to get to the</p> <p>7 pharmacy where they were filling it.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. What about if a doctor is from</p> <p>10 out of the area and the patient is bringing a</p> <p>11 script from a far away doctor? Is that a red</p> <p>12 flag?</p> <p>13 MS. McENROE: Objection to form,</p> <p>14 objection to scope.</p> <p>15 THE WITNESS: Again, it all</p> <p>16 depends on the type of doctor, where the</p> <p>17 patient and the pharmacy is located.</p> <p>18 There are things to consider if it's,</p> <p>19 say, Johns Hopkins -- if the doctor is</p> <p>20 from Johns Hopkins and the patient is</p> <p>21 filling it on the Eastern Shore of</p> <p>22 Maryland, I wouldn't -- that may not be a</p> <p>23 red flag as obviously Johns Hopkins is a</p> <p>24 medical hub type thing.</p>

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1 BY MR. PIFKO:  
2 Q. On these occasions when you would  
3 run these prescriber analyses, would you document  
4 your findings?  
5 MS. McENROE: Objection to form,  
6 objection to scope.  
7 THE WITNESS: We would maintain a  
8 file on the doctor.  
9 Again, this was Sophia, but -- in  
10 this instance, but if we were reviewing  
11 doctors, yes, we would maintain a file on  
12 that doctor.  
13 BY MR. PIFKO:  
14 Q. What would that file be called?  
15 MS. McENROE: Objection to form,  
16 objection to scope.  
17 THE WITNESS: The file would be  
18 the DEA number of the doctor and their  
19 name.  
20 BY MR. PIFKO:  
21 Q. Is there some sort of specific  
22 use that you would do with that file?  
23 MS. McENROE: Objection to form,  
24 objection to scope.

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1 THE WITNESS: We just store it on  
2 our drives.  
3 BY MR. PIFKO:  
4 Q. Would there be occasions if you  
5 found -- I believe you said on certain occasions  
6 there can be a suspicious prescriber; is that  
7 correct?  
8 MS. McENROE: Objection to form,  
9 objection to scope.  
10 THE WITNESS: That is correct.  
11 BY MR. PIFKO:  
12 Q. If you found a prescriber to be a  
13 suspicious prescriber, what would you do?  
14 MS. McENROE: Objection to form,  
15 objection to scope.  
16 THE WITNESS: If we found a  
17 suspicious prescriber, we would then look  
18 at the profile, verify the profile and  
19 send out a clinic protocol to the field  
20 teams, the asset protection district  
21 manager and the pharmacy district  
22 manager, to go and visit the prescriber's  
23 office.  
24 BY MR. PIFKO:

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1 Q. And what would the nature of the  
2 visit to the prescriber's office be?  
3 MS. McENROE: Objection to form,  
4 objection to scope.  
5 THE WITNESS: We have all of the  
6 data in front of us, but we don't know  
7 what the office looks like, if it's a  
8 functioning office, if it's in an office  
9 building that would look like a  
10 physician's office. And so the PDM and  
11 the APDM are responsible for sending back  
12 pictures of the doctor's office if  
13 possible, looking at the doctor's office  
14 to determine if there are people walking  
15 in and out and getting prescriptions  
16 every five minutes and not what would be  
17 a normal doctor visit.  
18 So they would be the eyes and  
19 ears looking for things like that.  
20 BY MR. PIFKO:  
21 Q. When you said PDM, you meant  
22 pharmacy district manager?  
23 A. Yes.  
24 Q. And APM is assistant pharmacy

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1 manager?  
2 A. Asset protection.  
3 Q. Okay. Thank you.  
4 In connection with those visits,  
5 would they speak to the doctor?  
6 MS. McENROE: Objection to form,  
7 objection to scope.  
8 THE WITNESS: They would ask to  
9 speak with office staff or to speak with  
10 the doctor. They would provide  
11 information on Rite Aid, such as the  
12 ability to get a flu shot at Rite Aid,  
13 things along those lines.  
14 BY MR. PIFKO:  
15 Q. Would they tell the doctor that  
16 they were investigating that doctor as a  
17 potentially suspicious prescriber?  
18 MS. McENROE: Objection to form,  
19 objection to scope.  
20 THE WITNESS: They would not.  
21 BY MR. PIFKO:  
22 Q. So then at some point this  
23 inquiry into the suspicious prescriber reaches  
24 some resolution. Agreed?

<p style="text-align: right;">Page 166</p> <p>1 MS. McENROE: Objection to form, 2 objection to scope. 3 THE WITNESS: Yes. 4 BY MR. PIFKO: 5 Q. If Rite Aid finds that a 6 prescriber is a suspicious prescriber after 7 finishing that investigation, what does it do? 8 MS. McENROE: Objection to form, 9 objection to scope. 10 THE WITNESS: We have the 11 pictures come back and we have a file of 12 all the data that we've run. And at that 13 point, if there's -- if we believe that 14 it is a suspicious prescriber, we have a 15 committee of three pharmacists at our 16 corporate office that will sit down and 17 look at the data, look at the pictures, 18 and make a determination if that 19 prescriber is a book of business that we 20 wanted or not. 21 BY MR. PIFKO: 22 Q. So ultimately a decision could be 23 made not to service prescriptions from that 24 doctor; is that correct?</p>	<p style="text-align: right;">Page 168</p> <p>1 that states that because of the 2 prescription of oxycodone, or whatever 3 the drug may be, that effective at a 4 certain date, Rite Aid will no longer 5 dispense controlled substance 6 prescriptions under their DEA number. 7 BY MR. PIFKO: 8 Q. Do they have an appeal process or 9 anything or is that decision final once it's 10 made? 11 MS. McENROE: Objection to form, 12 objection to scope. 13 THE WITNESS: Typically when we 14 get to that point, they may call and ask 15 for an appeal, but when we reach that 16 decision, that's a very serious decision 17 that we don't take lightly. So typically 18 there is no appeal. 19 BY MR. PIFKO: 20 Q. To your knowledge, has that 21 happened ever? 22 MS. McENROE: Objection to form, 23 objection to scope. 24 THE WITNESS: Has what happened?</p>
<p style="text-align: right;">Page 167</p> <p>1 MS. McENROE: Objection to form, 2 objection to scope. 3 THE WITNESS: Controlled 4 substance prescriptions, yes. 5 BY MR. PIFKO: 6 Q. To your knowledge, has that 7 happened on occasion? 8 MS. McENROE: Objection to form, 9 objection to scope. 10 THE WITNESS: It has. 11 BY MR. PIFKO: 12 Q. And when Rite Aid makes a 13 determination that they're not going to service a 14 prescriber anymore because they deem that 15 prescriber's practice to be sufficiently 16 suspicious, what would they do to implement that 17 decision? 18 MS. McENROE: Objection to form, 19 objection to scope. 20 THE WITNESS: Once the three 21 pharmacists at the corporate office sign 22 off that it's a book of business that we 23 don't want for the controlled substance, 24 then I notify the prescriber in a letter</p>	<p style="text-align: right;">Page 169</p> <p>1 BY MR. PIFKO: 2 Q. You've made a determine to stop 3 servicing business from a particular prescriber? 4 MS. McENROE: Objection to form, 5 objection to scope. 6 THE WITNESS: Yes, we have. 7 BY MR. PIFKO: 8 Q. Do you have a rough estimate 9 about how many times it's happened in your 10 career? 11 MS. McENROE: Objection to form, 12 objection to scope. 13 THE WITNESS: Over 150 times. 14 BY MR. PIFKO: 15 Q. That number came rather quickly. 16 You feel like that's a -- 17 A. Very close, yes. 18 MS. McENROE: Objection to form, 19 objection to scope. 20 BY MR. PIFKO: 21 Q. Okay. Do you keep statistics on 22 that somewhere? 23 MS. McENROE: Objection to form, 24 objection to scope.</p>



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1 THE WITNESS: We do.  
2 BY MR. PIFKO:  
3 Q. That's a statistic that you have  
4 reviewed in the recent past?  
5 MS. McENROE: Objection to form,  
6 objection to scope.  
7 THE WITNESS: I'm familiar with  
8 it on a daily basis.  
9 BY MR. PIFKO:  
10 Q. That's something you check every  
11 day?  
12 MS. McENROE: Objection to form,  
13 objection to scope.  
14 THE WITNESS: Not every day, but  
15 at least monthly.  
16 BY MR. PIFKO:  
17 Q. Can a doctor get reinstated after  
18 they've been terminated?  
19 MS. McENROE: Objection to form,  
20 objection to scope.  
21 THE WITNESS: Yes. A doctor can  
22 get reinstated.  
23 BY MR. PIFKO:  
24 Q. Is there a formal process that

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1 they have to follow?  
2 MS. McENROE: Objection to form,  
3 objection to scope.  
4 THE WITNESS: The doctor makes a  
5 request of -- from myself that they would  
6 like to be reinstated. And then I go in  
7 and look at the prescriber's history.  
8 So let's say it's been a year  
9 since we shut the doctor off. What then  
10 happens is he requests to be reinstated a  
11 year later. I would look at that  
12 doctor's history for the year, his  
13 prescribing pattern for that year, to  
14 determine if it has changed from when we  
15 shut the person off.  
16 BY MR. PIFKO:  
17 Q. But you wouldn't have a history  
18 on the substances, the controlled substances that  
19 you shut off because you weren't servicing that.  
20 Correct?  
21 MS. McENROE: Objection to form,  
22 objection to scope.  
23 THE WITNESS: That is not  
24 correct. We have a tool -- from 2013 on,

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1 we had a tool that was through IQVIA that  
2 would provide industry data deidentified  
3 for about 87 percent of retail  
4 pharmacists.  
5 BY MR. PIFKO:  
6 Q. Okay. When you found that a  
7 store has been servicing a suspicious prescriber,  
8 have you ever undertaken anything to flag the  
9 orders from that pharmacy as suspicious?  
10 MS. McENROE: Objection to form,  
11 objection to scope.  
12 THE WITNESS: Could you repeat  
13 the question, please?  
14 BY MR. PIFKO:  
15 Q. So if a store is filling  
16 prescriptions from a physician who's been  
17 determined to be a suspicious prescriber, does  
18 Rite Aid undertake any effort to identify orders  
19 from that store as suspicious as a result of them  
20 being from the suspicious prescriber?  
21 MS. McENROE: Objection to form.  
22 THE WITNESS: One more time, I'm  
23 sorry.  
24 BY MR. PIFKO:

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1 Q. If a store is filling  
2 prescriptions from a prescriber who's been  
3 determined to be a suspicious prescriber, does  
4 Rite Aid undertake any efforts to identify the  
5 orders that come from that store -- during the  
6 time when that suspicious prescriber was sending  
7 patients to that store, does Rite Aid undertake  
8 any effort to identify those orders as  
9 suspicious?  
10 MS. McENROE: Objection to form.  
11 THE WITNESS: We do not.  
12 BY MR. PIFKO:  
13 Q. So Rite Aid does not use any of  
14 the suspicious prescriber information that it may  
15 have collected in determining whether an order  
16 from any location is suspicious. Correct?  
17 MS. McENROE: Objection to form.  
18 THE WITNESS: The order has  
19 already been shipped to the store, so  
20 there's -- that's not incorporated -- the  
21 suspicious prescriber isn't incorporated  
22 in.  
23 BY MR. PIFKO:  
24 Q. What about when an investigation

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1 is going on, does Rite Aid undertake any effort  
2 to look at the orders that are continuing to come  
3 in as a result of prescriptions being placed  
4 through that doctor?  
5 MS. McENROE: Objection to form.  
6 THE WITNESS: We continue to  
7 monitor the prescriptions that would be  
8 coming in, but we do not consider that a  
9 suspicious order to place.  
10 BY MR. PIFKO:  
11 Q. So I believe we -- I asked you a  
12 little bit earlier, do you remember discussing  
13 this doctor, Dr. Harper?  
14 MS. McENROE: Objection to form,  
15 objection to scope.  
16 THE WITNESS: I don't remember  
17 discussing the doctor with Sophia.  
18 BY MR. PIFKO:  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

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1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 - - -  
17 (Deposition Exhibit No.  
18 Hart-30(b)(6)-6, Email dated 2011-02-01,  
19 Bates stamped Rite\_Aid\_OMDL\_0013134  
20 through Rite\_Aid\_OMDL\_0013136, was marked  
21 for identification.)  
22 - - -  
23 BY MR. PIFKO:  
24 Q. I'm handing you what's marked as

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1 Exhibit 6.  
2 For the record, Exhibit 6 is a  
3 three-page document Bates labeled  
4 Rite\_Aid\_OMDL\_0013134 through 36.  
5 Please take a moment to look at  
6 that and let me know when you're done.  
7 A. (Reviewing document.)  
8 Q. Have you seen this document  
9 before?  
10 A. I don't believe so, no.  
11 Q. In reviewing this, do you know  
12 what this document is?  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

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1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

1 Prescribing Painkillers," was marked for  
2 identification.)  
3 - - -  
4 BY MR. PIFKO:  
5 Q. I'm handing you what was  
6 previously marked as Novack Exhibit 8 and I'm  
7 marking here as Hart-30(b)(6) Exhibit 7.  
8 Please take a moment to review  
9 this. Note it's double sided.  
10 Let me know when you're done.  
11 MS. McENROE: I'm also going to  
12 make another scope objection for the  
13 record.  
14 THE WITNESS: (Reviewing  
15 document.)  
16 I'm done.  
17 BY MR. PIFKO:  
18 Q. Have you seen this before?  
19 A. Yes.  
20 Q. When was the last time you saw  
21 this?  
22 A. Within the past several days.  
23 Q. This is something you reviewed in  
24 preparing for this deposition?

1 A. Yes.  
2 Q. Do you see the first sentence  
3 here above the -- the headline reads, "Akron  
4 Doctor Pleads Guilty to Illegally Prescribing  
5 Painkillers."  
6 Do you see that?  
7 A. I do.  
8 Q. It's dated October 20, 2014.  
9 Do you see that?  
10 A. I do.  
11 Q. Do you see the first sentence  
12 here, it says, "An Akron physician pleaded guilty  
13 to illegally prescribing hundreds of thousands of  
14 doses of painkillers and other pills to customers  
15 for no legitimate medical purpose, even after he  
16 learned some customers had died from  
17 overdose-related deaths, law enforcement  
18 officials said."  
19 Do you see that?  
20 A. I do.

Q. Did Rite Aid institute efforts to  
shut this particular doctor down from its --  
serving his customers?

MS. McENROE: Objection to form,

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1 objection to scope.  
2 THE WITNESS: I don't remember.  
3 - - -  
4 (Deposition Exhibit No.  
5 Hart-30(b)(6)-8, Indictment, Case No.:  
6 5:14CR096, was marked for  
7 identification.)  
8 - - -  
9 BY MR. PIFKO:  
10 Q. I'm handing you what was  
11 previously marked as Novack Exhibit 7 and I've  
12 also marked here as Hart-30(b)(6) Exhibit 8. For  
13 the record, it's an indictment of Dr. Harper.  
14 MS. McENROE: For the record,  
15 again, objection as to scope. And can  
16 you tie this to any of the 30(b)(6)  
17 topics? Because the witness already  
18 said --  
19 BY MR. PIFKO:  
20 Q. It's dated March 25, 2014.  
21 Please take a moment to review  
22 this document and let me know when you're done.  
23 MS. McENROE: I'm going to take  
24 that as a no for purposes of the record.

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1 MR. PIFKO: I'm disagreeing with  
2 your characterization. You can object to  
3 scope. And I'm not going to answer  
4 questions from you.  
5 THE WITNESS: (Reviewing  
6 document.)  
7 BY MR. PIFKO:  
8 Q. As an initial matter, have you  
9 seen this document before?  
10 A. I have.  
11 Q. When did you see this?  
12 A. The past several days.  
13 Q. Is this something you reviewed in  
14 connection with preparing for this 30(b)(6)  
15 deposition?  
16 A. It is.  
17 Q. You can feel free to look at it  
18 as much as you want to, but I want to just ask  
19 you, on the second page here, it notes that Dr.  
20 Harper had issues with Schedule III substances.  
21 Do you see that? At the top of  
22 the second page.  
23 MS. McENROE: Objection to form.  
24 Where are you looking, Mark? I'm sorry,

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1 I don't see what paragraph.  
2 MR. PIFKO: It's paragraph 1. It  
3 continues from the bottom of the first  
4 page to the top of the second page.  
5 MS. McENROE: And objection to  
6 the scope as well.  
7 THE WITNESS: I see hydrocodone.  
8 BY MR. PIFKO:  
9 Q. And specifically it says that Dr.  
10 Harper and some of his colleagues, who they refer  
11 to as the Harper Drug Trafficking Organization,  
12 it says, starting on the first page that they  
13 "agreed to illegally distribute hundreds of  
14 thousands of doses of prescription painkillers to  
15 customers located in the Northern District of  
16 Ohio and elsewhere. They did so using ADOLPH  
17 HARPER, JR.'S 'medical' offices located in Akron,  
18 Ohio, by issuing drug orders purporting to be  
19 'prescriptions' for Schedule II controlled  
20 substances, primarily oxycodone, oxymorphone,  
21 methadone, and amphetamines, Schedule III  
22 controlled substances, primarily buprenorphine  
23 and hydrocodone, and Schedule IV controlled  
24 substances." It continues on.

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1 Do you see that?  
2 MS. McENROE: Objection to form,  
3 objection to scope.  
4 THE WITNESS: I do.  
5 BY MR. PIFKO:  
6 Q. So you agree that part of this  
7 indictment concerns Schedule III substances?  
8 MS. McENROE: Objection to form,  
9 objection to scope.  
10 THE WITNESS: I do.  
11 BY MR. PIFKO:  
12 Q. And those were substances that  
13 Rite Aid self-distributed during this time  
14 period. Agree?  
15 MS. McENROE: Objection to scope.  
16 THE WITNESS: The hydrocodone was  
17 distributed by Rite Aid.  
18 BY MR. PIFKO:  
19 Q. Did Rite Aid ever identify any  
20 orders from the pharmacies that serviced Dr.  
21 Harper's customers as suspicious?  
22 MS. McENROE: Objection to form.  
23 THE WITNESS: Could you repeat  
24 the question? I'm sorry.

<p style="text-align: right;">Page 186</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Yeah.</p> <p>3 Did Rite Aid ever identify any</p> <p>4 orders from the pharmacies that serviced Dr.</p> <p>5 Harper's customers as suspicious?</p> <p>6 MS. McENROE: Objection to form.</p> <p>7 THE WITNESS: To the best of my</p> <p>8 knowledge, no.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Do you know if Rite Aid was aware</p> <p>11 of this indictment on or around the time that it</p> <p>12 occurred?</p> <p>13 MS. McENROE: Object to the form,</p> <p>14 objection to scope.</p> <p>15 THE WITNESS: I do not know.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Does Rite Aid track whether any</p> <p>18 prescribers and -- who have customers that come</p> <p>19 to Rite Aid stores are indicted?</p> <p>20 MS. McENROE: Objection to form,</p> <p>21 objection to scope.</p> <p>22 THE WITNESS: We do not.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Does Rite Aid track whether</p>	<p style="text-align: right;">Page 188</p> <p>1 Hart-30(b)(6)-9, Press Release, "Rite Aid</p> <p>2 Corporation and Subsidiaries Agree to Pay</p> <p>3 \$5 Million in Civil Penalties to Resolve</p> <p>4 Violations in Eight States of the</p> <p>5 Controlled Substances Act," 2 pages, was</p> <p>6 marked for identification.)</p> <p>7 - - -</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Take a moment to review that.</p> <p>10 If you recall, there was a brief</p> <p>11 discussion of this yesterday.</p> <p>12 MS. McENROE: Again, for the</p> <p>13 record, objection as to scope as to the</p> <p>14 line of questioning pertaining to this</p> <p>15 exhibit as outside the scope of the</p> <p>16 30(b)(6) topics.</p> <p>17 THE WITNESS: (Reviewing</p> <p>18 document.)</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Have you seen this document</p> <p>21 before?</p> <p>22 A. I have.</p> <p>23 Q. When was the last time you saw</p> <p>24 this?</p>
<p style="text-align: right;">Page 187</p> <p>1 prescribers have lost their licenses?</p> <p>2 MS. McENROE: Objection to form,</p> <p>3 objection to scope.</p> <p>4 THE WITNESS: We have a database</p> <p>5 in our NextGen system that updates the</p> <p>6 prescriber file on a daily basis. Once a</p> <p>7 DEA license becomes invalid, that license</p> <p>8 becomes invalid in our system and no</p> <p>9 prescriptions can be dispensed under that</p> <p>10 prescriber's DEA number. It's a national</p> <p>11 database that's out there.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. How long has that been in place?</p> <p>14 MS. McENROE: Objection to scope.</p> <p>15 THE WITNESS: I'm going to say</p> <p>16 2000 -- late 2000s, early 2000 -- late</p> <p>17 2000s, like '9, '10, '11. That's just</p> <p>18 speculation. It could have been there</p> <p>19 before that, but...</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. I'm handing you what's marked as</p> <p>22 Hart-30(b)(6) Exhibit 9.</p> <p>23 - - -</p> <p>24 (Deposition Exhibit No.</p>	<p style="text-align: right;">Page 189</p> <p>1 A. Within the last several days.</p> <p>2 Q. This is a document that you</p> <p>3 reviewed in preparing for your 30(b)(6)</p> <p>4 deposition?</p> <p>5 A. Yes.</p> <p>6 Q. Can you tell me what this is?</p> <p>7 MS. McENROE: Objection to form,</p> <p>8 objection to scope.</p> <p>9 THE WITNESS: It's an</p> <p>10 announcement of a settlement agreement</p> <p>11 between Rite Aid and the Drug Enforcement</p> <p>12 Administration from 2009.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Does this refresh your</p> <p>15 recollection about when Rite Aid instituted the</p> <p>16 system that it uses to check whether prescribers'</p> <p>17 DEA licenses are invalid?</p> <p>18 MS. McENROE: Objection to form,</p> <p>19 objection to scope.</p> <p>20 THE WITNESS: I don't know that</p> <p>21 that coincides. I couldn't say that for</p> <p>22 sure.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. You agree this happened in 2009?</p>



<p style="text-align: right;">Page 190</p> <p>1 It says here -- it's dated -- this press release  2 is dated January 12, 2009. Do you agree?  3 MS. McENROE: Objection to form,  4 objection to scope.  5 THE WITNESS: I do.  6 BY MR. PIFKO:  7 Q. And you testified that you  8 believe that Rite Aid instituted its efforts to  9 check prescriber licenses sometime in 2009, '10  10 or '11; is that correct?  11 MS. McENROE: Objection to form.  12 THE WITNESS: I said that was --  13 I will correct the record then.  14 There was a system in place to  15 check licenses prior to that. There was  16 enhancement to the system as well.  17 BY MR. PIFKO:  18 Q. The enhancement was sometime in  19 2009, '10 or '11?  20 MS. McENROE: Objection to form.  21 THE WITNESS: Again, I don't know  22 the date line of that. I don't have that  23 knowledge.  24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 192</p> <p>1 THE WITNESS: I see that.  2 BY MR. PIFKO:  3 Q. Do you agree that that was part  4 of the scope of the settlement agreement?  5 MS. McENROE: Objection to form,  6 objection to scope.  7 THE WITNESS: I do.  8 BY MR. PIFKO:  9 Q. It also says that, "Rite Aid  10 failed to notify the DEA in a timely manner of  11 significant thefts and losses of controlled  12 substances, thus permitting the diversion of  13 controlled substances to continue and undermining  14 DEA's ability to investigate such thefts...or  15 losses."  16 Do you see that?  17 MS. McENROE: Objection to form,  18 objection to scope.  19 THE WITNESS: I do.  20 BY MR. PIFKO:  21 Q. Do you agree that that was part  22 of the 2009 settlement?  23 MS. McENROE: Objection to form,  24 objection to scope.</p>
<p style="text-align: right;">Page 191</p> <p>1 Q. Was that made as a result of this  2 settlement?  3 MS. McENROE: Objection to form,  4 objection to scope.  5 THE WITNESS: It was not.  6 BY MR. PIFKO:  7 Q. There are some bullet points here  8 about halfway down the page.  9 Do you see those?  10 A. I do.  11 Q. It talks about some of the  12 alleged violations that occurred in connection  13 with this settlement.  14 Do you see that?  15 A. I do.  16 MS. McENROE: Objection.  17 BY MR. PIFKO:  18 Q. One of them is that "Rite Aid  19 knowingly filled prescriptions for controlled  20 substances that were not issued for a legitimate  21 medical purpose pursuant to a valid  22 physician-patient relationship."  23 Do you see that?  24 MS. McENROE: Objection to scope.</p>	<p style="text-align: right;">Page 193</p> <p>1 THE WITNESS: I do.  2 BY MR. PIFKO:  3 Q. It also says, "Rite Aid failed to  4 properly execute DEA forms used to ensure that  5 the amount of Schedule II drugs ordered by Rite  6 Aid were actually received."  7 Do you see that?  8 MS. McENROE: Objection to form,  9 objection to scope.  10 THE WITNESS: I do.  11 BY MR. PIFKO:  12 Q. Was that part of the settlement  13 as well?  14 MS. McENROE: Objection to form,  15 objection to scope.  16 THE WITNESS: That was part of  17 the settlement.  18 It should be noted that the Rite  19 Aid distribution center in Perryman was  20 not included or mentioned in the  21 settlement agreement.  22 BY MR. PIFKO:  23 Q. It says here in the paragraph  24 after those bullet points, part of the last</p>

<p style="text-align: right;">Page 194</p> <p>1 sentence, that accountability audits reflected "a 2 pattern of non-compliance with the requirements 3 of the Controlled Substances Act and federal 4 regulations that lead to the diversion of 5 controlled substances." 6 Do you see that? 7 MS. McENROE: Objection to form, 8 objection to scope. 9 THE WITNESS: You lost me on that 10 one. 11 BY MR. PIFKO: 12 Q. It's highlighted on the screen 13 for you. 14 A. Oh, okay. Sorry. 15 I do. 16 Q. Do you agree that that was part 17 of the settlement? 18 MS. McENROE: Objection to form, 19 objection to scope. 20 THE WITNESS: It was. 21 BY MR. PIFKO: 22 Q. There's a quote here from the DEA 23 acting administrator, two paragraphs down, second 24 to last paragraph on the first page there.</p>	<p style="text-align: right;">Page 196</p> <p>1 question? 2 BY MR. PIFKO: 3 Q. Yeah. 4 Like, for example, the settlement 5 concerned Rite Aid knowingly filling 6 prescriptions for controlled substances that were 7 not issued for a legitimate medical purpose 8 pursuant to a valid physician-patient 9 relationship. 10 Do you see that? 11 MS. McENROE: Objection to form, 12 objection to scope. 13 THE WITNESS: I do. 14 BY MR. PIFKO: 15 Q. Did Rite Aid identify any 16 suspicious orders as a result of prescriptions 17 that were filled that were not issued for a 18 legitimate medical purpose? 19 MS. McENROE: Objection to form. 20 THE WITNESS: We did not. 21 MR. PIFKO: All right. We can 22 take a break. 23 THE WITNESS: Wait. 24 THE VIDEOGRAPHER: Going off the</p>
<p style="text-align: right;">Page 195</p> <p>1 It says, at the bottom of that 2 paragraph, "Our nation's pharmacies must play a 3 major role in the fight against drug abuse, so 4 that together we can protect public health and 5 keep our communities safe." 6 Do you see that? 7 MS. McENROE: Objection to form, 8 objection to scope. 9 THE WITNESS: I do. 10 BY MR. PIFKO: 11 Q. Do you agree with that statement? 12 MS. McENROE: Objection to form, 13 objection to scope. 14 THE WITNESS: I do. 15 MS. McENROE: Mark, when you get 16 a chance, we've been going about an hour 17 for a break. 18 MR. PIFKO: Yeah. 19 BY MR. PIFKO: 20 Q. Did Rite Aid identify any 21 suspicious orders as a result of any of the 22 allegations in connection with the settlement? 23 MS. McENROE: Objection to form. 24 THE WITNESS: Can you repeat the</p>	<p style="text-align: right;">Page 197</p> <p>1 record at 2 -- 2 THE WITNESS: Wait, wait. May I 3 make a comment also, though? 4 As part of the press release, it 5 does state that "The settlement agreement 6 is neither an admission of liability by 7 Rite Aid nor a concession by the United 8 States that its claims" were not founded. 9 Thank you. 10 THE VIDEOGRAPHER: Going off the 11 record at 2:08 p.m. 12 - - - 13 (A recess was taken from 14 2:08 p.m. to 2:23 p.m.) 15 - - - 16 THE VIDEOGRAPHER: Going back on 17 the record at 2:23 p.m. 18 - - - 19 (Deposition Exhibit No. 20 Hart-30(b)(6)-10, Order of the State 21 Board of Pharmacy, Docket Number 22 D-110127-163, was marked for 23 identification.) 24 - - -</p>

<p style="text-align: right;">Page 198</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. I'm handing you what's marked as</p> <p>3 Exhibit 10.</p> <p>4 For the record, this is an order</p> <p>5 from the Ohio State Board of Pharmacy. The</p> <p>6 document itself is four pages. Take a moment to</p> <p>7 review it. Let me know when you're ready.</p> <p>8 The part I consider to be the</p> <p>9 document, just so you can understand, is this</p> <p>10 docket number D-110127-163, concerning Marcus --</p> <p>11 or Brian Marcus Kins.</p> <p>12 MS. McENROE: Starting in the</p> <p>13 middle of the first page?</p> <p>14 MR. PIFKO: Yeah.</p> <p>15 MS. McENROE: And then going</p> <p>16 until where, Mark?</p> <p>17 MR. PIFKO: It continues onto the</p> <p>18 last page, but only the top quarter of</p> <p>19 the last page.</p> <p>20 MS. McENROE: Where it says</p> <p>21 11:30 a.m.?</p> <p>22 MR. PIFKO: Yes.</p> <p>23 MS. McENROE: For the record, I'm</p> <p>24 going to object to this document and the</p>	<p style="text-align: right;">Page 200</p> <p>1 does work for Rite Aid?</p> <p>2 A. Yes.</p> <p>3 Q. When one serves on the Board of</p> <p>4 Pharmacy, is that concurrent with him working for</p> <p>5 Rite Aid?</p> <p>6 A. Yes.</p> <p>7 Q. So he still holds that -- does</p> <p>8 this Kevin Mitchell still work for Rite Aid?</p> <p>9 A. Yes. This Kevin Mitchell left</p> <p>10 from Rite Aid, went to work for the board, and</p> <p>11 came back to Rite Aid.</p> <p>12 Q. Okay.</p> <p>13 A. So he is currently a pharmacist</p> <p>14 for Rite Aid.</p> <p>15 Q. But he doesn't currently serve on</p> <p>16 the Board of Pharmacy?</p> <p>17 A. No. His term was up.</p> <p>18 Q. At the time that he was sitting</p> <p>19 on the Board of Pharmacy here, did he still work</p> <p>20 for Rite Aid?</p> <p>21 A. I don't -- I'm going to say yes,</p> <p>22 but again, my recollection could be wrong. But</p> <p>23 it looks around the time frame, yes.</p> <p>24 Q. Does anyone else who is a member</p>
<p style="text-align: right;">Page 199</p> <p>1 line of questioning that will be related</p> <p>2 to it as beyond the scope and not being</p> <p>3 tied to one of the topics.</p> <p>4 MR. PIFKO: You haven't heard the</p> <p>5 questions yet.</p> <p>6 MS. McENROE: I know. Just in</p> <p>7 terms of the document.</p> <p>8 THE WITNESS: (Reviewing</p> <p>9 document.)</p> <p>10 Okay.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Have you seen this before?</p> <p>13 A. I have not.</p> <p>14 Q. It mentions here, as an aside,</p> <p>15 Kevin Mitchell here as being a member of the</p> <p>16 board of the Ohio Board of Pharmacy.</p> <p>17 I assume that's not the same</p> <p>18 Kevin Mitchell who works at Rite Aid?</p> <p>19 A. Okay.</p> <p>20 Q. Is it?</p> <p>21 A. This Kevin Mitchell is a</p> <p>22 pharmacist for Rite Aid in Ohio, not the Kevin</p> <p>23 Mitchell that's involved in this case.</p> <p>24 Q. Okay. So this Kevin Mitchell</p>	<p style="text-align: right;">Page 201</p> <p>1 of the board reflected here in that section under</p> <p>2 introduction work for Rite Aid?</p> <p>3 MS. McENROE: Objection, scope.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Do you know who Michael Mone is?</p> <p>7 A. Yes.</p> <p>8 Q. Who is he?</p> <p>9 A. Michael Mone works for Cardinal.</p> <p>10 Q. Do you know what he does for</p> <p>11 Cardinal?</p> <p>12 A. He is an attorney and a</p> <p>13 pharmacist and does regulatory affairs.</p> <p>14 Q. Do you know if he was employed by</p> <p>15 Cardinal at the time that he sat on the Board of</p> <p>16 Pharmacy here?</p> <p>17 MS. McENROE: Objection to scope.</p> <p>18 THE WITNESS: I don't know his</p> <p>19 employment.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. How do you know who Mr. Mone is?</p> <p>22 A. I am on the Pennsylvania State</p> <p>23 Board of Pharmacy here in the state, and I</p> <p>24 interact with Mr. Mone on a routine basis at NABP</p>

<p style="text-align: right;">Page 202</p> <p>1 meetings, National Association of Boards of  2 Pharmacy meetings, or district -- NABP district  3 meetings and occasionally at NACDS meetings.  4 Q. In connection with those kind of  5 meetings, do you meet with any other distributors  6 of pharmaceutical products?  7 MS. McENROE: Objection to form,  8 objection to scope.  9 THE WITNESS: Not really. And  10 Michael and I are there as members of the  11 Board of Pharmacy. We are not meeting on  12 behalf of our jobs.  13 BY MR. PIFKO:  14 Q. So, to your knowledge, you don't  15 meet with, for example, anyone who works for  16 AmeriSource Bergen at those meetings?  17 MS. McENROE: Objection, form,  18 objection to scope.  19 THE WITNESS: There could be  20 someone at one of those meetings. I  21 don't know a lot of people from  22 AmeriSource Bergen since we don't -- Rite  23 Aid doesn't do business with them.  24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 204</p> <p>1 objection to scope.  2 THE WITNESS: Not off the top of  3 my head, no.  4 BY MR. PIFKO:  5 Q. Do you know if any of the  6 defendants in this litigation are members of the  7 NACDS?  8 MS. McENROE: Objection to form,  9 objection to scope.  10 THE WITNESS: I would say yes.  11 BY MR. PIFKO:  12 Q. What's the basis for saying that?  13 MS. McENROE: Objection to scope.  14 THE WITNESS: Reading the  15 documentation as far as the case and  16 industry newsletters and things like  17 that.  18 BY MR. PIFKO:  19 Q. When you say documentation for  20 the case, you've seen documents that have a list  21 of defendants on it, like the interrogatory  22 responses, things like that?  23 A. Yeah. Or there could be  24 something published in like a Pharmacy Times or</p>
<p style="text-align: right;">Page 203</p> <p>1 Q. How about McKesson, is anyone  2 from McKesson at those meeting?  3 MS. McENROE: Objection to form,  4 objection to scope.  5 THE WITNESS: Occasionally, yes.  6 BY MR. PIFKO:  7 Q. Who from McKesson attends those  8 meetings?  9 MS. McENROE: Objection to form,  10 objection to scope.  11 THE WITNESS: I don't remember  12 who from McKesson. I apologize.  13 BY MR. PIFKO:  14 Q. How about from any of the  15 manufacturers, do you know if there are people at  16 those meetings who work for drug manufacturers?  17 MS. McENROE: Objection to form,  18 objection to scope.  19 THE WITNESS: At the NACDS  20 meetings? There are drug manufacturers  21 that are members of NACDS, yes.  22 BY MR. PIFKO:  23 Q. Do you know which ones?  24 MS. McENROE: Objection to form,</p>	<p style="text-align: right;">Page 205</p> <p>1 something like that.  2 Q. So you're talking about -- to the  3 extent there's been media coverage of the case  4 and you see who's involved, that's what you're  5 talking about?  6 MS. McENROE: Objection to form,  7 objection to scope.  8 THE WITNESS: Yes.  9 BY MR. PIFKO:  10 Q. Okay. Turning back to this  11 particular Exhibit 10, this incident here, are  12 you familiar with this pharmacist, Mr. Kins?  13 MS. McENROE: Objection to form.  14 Objection to form, objection to scope.  15 THE WITNESS: I am not.  16 BY MR. PIFKO:  17 Q. If you turn to the second page,  18 there's a heading "Findings of Fact."  19 Do you see that?  20 A. I do.  21 Q. There's numbered paragraphs there  22 with parentheses.  23 Do you see that? Like 1, 2?  24 A. Yes.</p>

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1 Q. Paragraph 1, towards the bottom,  
2 it says that Mr. Kins was the Responsible  
3 Pharmacist at Rite Aid Pharmacy #4764 in  
4 Broadview Heights, Ohio.  
5 Do you see that?  
6 MS. McENROE: Objection to scope.  
7 THE WITNESS: I do.  
8 BY MR. PIFKO:  
9 Q. Do you know what the term  
10 "responsible pharmacist" means?  
11 MS. McENROE: Objection to scope.  
12 THE WITNESS: I do.  
13 BY MR. PIFKO:  
14 Q. What does that mean?  
15 A. It means that is the pharmacist  
16 in charge, the head pharmacist for the store.  
17 Q. Okay. And that's what I was  
18 going to ask you, is -- so there's a hierarchy of  
19 the pharmacists who work at any particular store?  
20 MS. McENROE: Objection to form,  
21 objection to scope.  
22 THE WITNESS: In -- there is a  
23 pharmacist that's in charge or the  
24 pharmacist that's responsible for the

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1 recordkeeping. And then there could be a  
2 staff pharmacist or a floater pharmacist  
3 that may work in the store.  
4 BY MR. PIFKO:  
5 Q. And so you just alluded to some  
6 of it, but the responsibilities of the pharmacist  
7 in charge include recordkeeping and what else?  
8 MS. McENROE: Objection to form,  
9 objection to scope.  
10 THE WITNESS: Typically the  
11 pharmacist in charge is of staffing and  
12 maintenance of prescriptions and that.  
13 BY MR. PIFKO:  
14 Q. I believe in Sophia Lai's  
15 deposition it was discussed that she had profit  
16 and loss responsibility for the pharmacy  
17 operations at her pharmacy at one point.  
18 Does the pharmacist in charge  
19 have that kind of responsibility as well?  
20 MS. McENROE: Objection to form,  
21 objection to scope.  
22 THE WITNESS: Can you repeat the  
23 question?  
24 BY MR. PIFKO:

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1 Q. We talked about -- I forget the  
2 term you used now -- the front of the store?  
3 A. Front end?  
4 Q. Front end and the pharmacy.  
5 Right?  
6 A. Right.  
7 Q. So those operations -- there's  
8 some degree of separation between those  
9 operations at a store. Correct?  
10 MS. McENROE: Objection to form,  
11 objection to scope.  
12 THE WITNESS: That is correct.  
13 BY MR. PIFKO:  
14 Q. Okay. And somebody at the  
15 pharmacy is responsible for the profit and loss  
16 operations of the pharmacy. Correct?  
17 MS. McENROE: Objection to form,  
18 objection to scope.  
19 THE WITNESS: That is correct.  
20 BY MR. PIFKO:  
21 Q. And is that the pharmacist in  
22 charge?  
23 MS. McENROE: Objection to scope.  
24 THE WITNESS: That is correct.

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1 BY MR. PIFKO:  
2 Q. So in this particular case, Mr.  
3 Kins was in charge of the profit and loss of this  
4 particular Rite Aid, 4764; is that correct?  
5 MS. McENROE: Objection to form,  
6 objection to scope.  
7 THE WITNESS: That is correct.  
8 BY MR. PIFKO:  
9 Q. It says here under the second  
10 paragraph of "Findings of Fact" that Mr. Kins "is  
11 addicted to or abusing drugs."  
12 Do you see that?  
13 A. I do.  
14 Q. Do you have any reason to dispute  
15 that finding?  
16 MS. McENROE: Objection to form,  
17 objection to scope.  
18 THE WITNESS: I do not.  
19 BY MR. PIFKO:  
20 Q. If you go to the next page, well,  
21 starting at the bottom of the second page and  
22 continuing to the third page, it says, "Brian  
23 Marcus Kins has admitted to Board agents that he  
24 is addicted to controlled substances; that Brian



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1 Marcus Kins has stolen controlled substances from  
2 his employer for personal abuse;" and "that Brian  
3 Marcus Kins altered prescriptions to obtain  
4 controlled substances for his abuse and to sell."  
5 Do you see that?  
6 A. I do.  
7 Q. Do you have any reason to dispute  
8 those findings of fact in here?  
9 MS. McENROE: Objection to form,  
10 objection to scope.  
11 THE WITNESS: I do not.  
12 BY MR. PIFKO:  
13 Q. Did Rite Aid ever report any  
14 suspicious orders from store Rite Aid 4764 while  
15 Mr. Kins was the responsible pharmacist?  
16 MS. McENROE: Objection to form.  
17 THE WITNESS: We did not report  
18 any suspicious orders.  
19 BY MR. PIFKO:  
20 Q. Does Rite Aid have a process of  
21 disciplining an employee or terminating them when  
22 they have a Board of Pharmacy action brought  
23 against them?  
24 MS. McENROE: Objection to form,

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1 objection to scope.  
2 THE WITNESS: Any time an  
3 employee diverts controlled substances,  
4 they would be terminated and Rite Aid  
5 would turn that individual into the state  
6 Board of Pharmacy.  
7 BY MR. PIFKO:  
8 Q. Other than terminating them, is  
9 there any other investigation with respect to the  
10 order history at that store that would occur in  
11 connection with a finding that a pharmacist in  
12 charge or any other pharmacist diverted  
13 controlled substances?  
14 MS. McENROE: Objection to form,  
15 objection to scope.  
16 THE WITNESS: Rite Aid would  
17 conduct an accountability of all of the  
18 drugs that entered into the pharmacy  
19 in -- or dispensed to determine if there  
20 was a loss of controlled substances.  
21 BY MR. PIFKO:  
22 Q. By loss, you mean theft?  
23 A. Theft.  
24 Q. What if a pharmacist doesn't

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1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

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1 THE WITNESS: That would be part  
2 of the asset protection's investigation  
3 into the theft.  
4 BY MR. PIFKO:  
5 Q. And what would be the outcome if  
6 they found that there was theft?  
7 MS. McENROE: Objection to form,  
8 objection to scope.  
9 THE WITNESS: If there was theft  
10 and the loss of drugs, the loss would be  
11 reported to the Ohio Board of Pharmacy  
12 and to the Drug Enforcement  
13 Administration.  
14 BY MR. PIFKO:  
15 Q. But Rite Aid wouldn't make any  
16 reports concerning suspicious orders. Correct?  
17 MS. McENROE: Objection to form,  
18 objection to scope.  
19 THE WITNESS: We would not make a  
20 report of a suspicious order.  
21 BY MR. PIFKO:  
22 Q. Would Rite Aid make any  
23 adjustments to its auto replenishment system if  
24 it knew that, for example, in this case, that the



<p style="text-align: right;">Page 214</p> <p>1 pharmacist was stealing prescriptions for 2 personal use or selling them to others? 3 MS. McENROE: Objection to form. 4 THE WITNESS: We would not adjust 5 the auto replenishment. 6 BY MR. PIFKO: 7 Q. So when it's conducting its 8 analysis of [REDACTED] and the like, it's 9 including that conduct as well, potentially. 10 Correct? 11 MS. McENROE: Objection to form. 12 THE WITNESS: It would be 13 including the prescriptions that were 14 fraudulently dispensed, because they 15 would be through the system. So yes. 16 BY MR. PIFKO: 17 Q. I'm handing you what's been 18 marked as Hart-30(b)(6) Exhibit 11. 19 - - - 20 (Deposition Exhibit No. 21 Hart-30(b)(6)-11, Order of the State 22 Board of Pharmacy Docket Number 23 D-100621-134, was marked for 24 identification.)</p>	<p style="text-align: right;">Page 216</p> <p>1 Q. Have you seen this before? 2 A. I have not. 3 Q. Do you know who Henry Kozik is? 4 A. A pharmacist, yes. 5 Q. Someone who was employed by Rite 6 Aid? 7 MS. McENROE: Objection to scope. 8 THE WITNESS: Based on the order, 9 yes. 10 BY MR. PIFKO: 11 Q. The order has a number of 12 findings of fact concerning thefts committed by 13 Mr. Kozik on various dates, specifically 14 identifying various thefts of product that he 15 made. 16 Do you see that? 17 MS. McENROE: Objection to form, 18 objection to scope. 19 THE WITNESS: I do. 20 BY MR. PIFKO: 21 Q. Paragraph 5 also says -- it's on 22 the third page. 23 Are you there? 24 A. I'm fine.</p>
<p style="text-align: right;">Page 215</p> <p>1 - - - 2 BY MR. PIFKO: 3 Q. It's another order of the state 4 Board of Pharmacy. This one's five pages. 5 Direct your attention to the one 6 that begins on the bottom of the first page 7 concerning Henry Kozik, docket number 8 D-100621-134. 9 Take a moment to review that and 10 let me know when you're done. 11 MS. McENROE: For the record, I'm 12 going to object to the use of this 13 document as being outside the scope of 14 the 30(b)(6) for this deposition. 15 THE WITNESS: I have a question. 16 Here it makes note under the 17 State's Exhibit Number 3, "Rite Aid 18 Corporation Letter of Explanation." 19 Is that available to review? 20 BY MR. PIFKO: 21 Q. I don't have a copy of that with 22 me. Maybe Kevin Mitchell can get it for us. 23 Are you ready? 24 A. I am ready.</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. It says, "Henry F. Kozik did, on 2 or about June 2, 2007, knowingly sell a 3 controlled substance when the conduct was not in 4 accordance with Chapters 3719., 4729., and 4731. 5 of the Ohio Revised Code, to wit: Henry F. Kozik 6 gave a female at least 33 hydrocodone/APAP 5/500 7 tablets and at least 43 tablets of 8 hydrocodone/APAP 7.5/750 without a valid 9 prescription from a prescriber and not for a 10 legitimate medical purpose." 11 Do you see that? 12 MS. McENROE: Objection to scope. 13 THE WITNESS: I do. 14 BY MR. PIFKO: 15 Q. To your knowledge, did Rite Aid 16 report any suspicious orders from the pharmacies 17 where Mr. Kozik worked -- 18 MS. McENROE: Objection to form. 19 BY MR. PIFKO: 20 Q. -- as a result of these 21 incidents? 22 MS. McENROE: Objection to form. 23 THE WITNESS: We did not. 24 BY MR. PIFKO:</p>

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1 Q. Do you know if Rite Aid conducted  
2 an investigation into this conduct?  
3 MS. McENROE: Objection to scope,  
4 objection to form.  
5 THE WITNESS: An investigation  
6 would have been completed by our asset  
7 protection team.  
8 BY MR. PIFKO:  
9 Q. What's the basis for you  
10 believing that such an investigation would have  
11 occurred?  
12 MS. McENROE: Objection to scope.  
13 THE WITNESS: Any theft of  
14 controlled substances results in an asset  
15 protection investigation.  
16 BY MR. PIFKO:  
17 Q. And if Mr. Kozik was disciplined  
18 by the Board of Pharmacy, Rite Aid would know  
19 about that?  
20 MS. McENROE: Objection to form,  
21 objection to scope.  
22 THE WITNESS: Yes, we would know.  
23 We have a system that we use to verify  
24 our associates and their licenses to make

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1 sure that they remain valid.  
2 BY MR. PIFKO:  
3 Q. As we discussed with respect to  
4 the prior Board of Pharmacy order, with respect  
5 to paragraph 5 here, there would not have been  
6 any adjustments to Rite Aid's auto replenishment  
7 system as a result of this sale to a female of  
8 certain hydrocodone tablets without a valid  
9 prescription.  
10 Do you agree?  
11 MS. McENROE: Objection to form,  
12 objection to scope.  
13 THE WITNESS: There would be no  
14 revision.  
15 BY MR. PIFKO:  
16 Q. If a pharmacist conducts any due  
17 diligence of any suspected red flags, does -- at  
18 the time when Rite Aid was self-distributing  
19 Schedule III controlled substances, did the  
20 distribution center who would sell to that  
21 pharmacy have any visibility into the  
22 investigation being conducted by the pharmacist?  
23 MS. McENROE: Objection.  
24 Objection to form.

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1 THE WITNESS: They did not.  
2 BY MR. PIFKO:  
3 Q. Did Rite Aid have any policy  
4 whereby if a pharmacist conducted such an  
5 investigation, they needed to report that back up  
6 to the distribution center?  
7 MS. McENROE: Objection to form.  
8 THE WITNESS: The pharmacist, if  
9 they did an investigation, would report  
10 that to their pharmacy district manager  
11 or their asset protection district  
12 manager, not to the distribution center.  
13 BY MR. PIFKO:  
14 Q. Would anybody in that chain  
15 ultimately provide information that there was a  
16 potential red flag to the distribution center?  
17 MS. McENROE: Objection to form.  
18 THE WITNESS: Typically, no.  
19 BY MR. PIFKO:  
20 Q. I'm handing you a document that  
21 was previously marked in Mr. Belli's deposition  
22 as Exhibit 15. And I have marked it as  
23 Exhibit 12 to Rite Aid's 30(b)(6) deposition.  
24 - - -

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1 (Deposition Exhibit No.  
2 Hart-30(b)(6)-12, Project Initiation for  
3 504 Suspicious Order Monitoring, Bates  
4 stamped Rite\_Aid\_OMDL\_0040184 through  
5 Rite\_Aid\_OMDL\_0040198, was marked for  
6 identification.)  
7 - - -  
8 BY MR. PIFKO:  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

Page 222

[REDACTED]

Page 223

[REDACTED]

Page 224

[REDACTED]

7 - - -

8 (Deposition Exhibit No.

9 Hart-30(b)(6)-13, Email chain, top one

10 dated 2013-08-07, Bates stamped

11 Rite\_Aid\_OMDL\_0024599 and

12 Rite\_Aid\_OMDL\_0024600, was marked for

13 identification.)

14 - - -

15 BY MR. PIFKO:

16 Q. I'm handing you another exhibit

17 concerning this project. You can keep that one

18 with you as well.

19 It's marked as Exhibit

20 Hart-30(b)(6)-13.

21 For the record, Exhibit 13 is

22 Bates labeled Rite\_Aid\_OMDL\_0024599, and it has

23 an attachment which is a spreadsheet, which is

24 Bates labeled Rite\_Aid\_OMDL\_0024600.

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1 Let me know when you're done

2 reading Exhibit 13.

3 A. I'm done reading number 13.

4 Q. Have you seen Exhibit 13 before?

5 A. I have.

6 Q. When was the last time you saw

7 that?

8 A. Within the past few days.

9 Q. This is a document that you

10 reviewed in preparing for your 30(b)(6)

11 deposition?

12 A. It is.

13 Q. When do you believe was the first

14 time you saw this document?

[REDACTED]

Page 226

[REDACTED]

Page 228

[REDACTED]

Page 227

[REDACTED]

Page 229

[REDACTED]

Page 230

Page 232

A horizontal bar chart titled "U.S. should take action to address climate change" showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists 16 categories representing combinations of age and gender. The x-axis represents the percentage, ranging from 0 to 100. The bars are colored in shades of blue and green. The data shows that a majority of respondents in all age groups and genders believe the U.S. should take action to address climate change, with the highest percentages generally found in the 18-29 age group and among females.

Age Group	Gender	Percentage
18-29	Male	85%
18-29	Female	90%
30-49	Male	80%
30-49	Female	85%
50-69	Male	75%
50-69	Female	80%
70+	Male	70%
70+	Female	75%
18-29	Male	85%
18-29	Female	90%
30-49	Male	80%
30-49	Female	85%
50-69	Male	75%
50-69	Female	80%
70+	Male	70%
70+	Female	75%
18-29	Male	85%
18-29	Female	90%
30-49	Male	80%
30-49	Female	85%
50-69	Male	75%
50-69	Female	80%
70+	Male	70%
70+	Female	75%

A horizontal bar chart titled 'U.S. should take action to address climate change'. The y-axis lists age groups: 18-29, 30-49, 50-69, 70+, and 'All adults'. The x-axis represents the percentage of respondents, ranging from 0 to 100 in increments of 10. For each age group, there are two bars: a blue bar for 'Men' and an orange bar for 'Women'. The data shows that across all age groups, a majority of respondents believe the U.S. should take action to address climate change. The percentage is generally higher for women than for men, and higher for younger age groups than for older ones.

Age Group	Men (%)	Women (%)
18-29	88	92
30-49	82	88
50-69	78	82
70+	72	78
All adults	78	82

Page 231

Page 233

Category	Percentage
1	100%
2	35%
3	92%
4	85%
5	88%
6	38%
7	88%
8	85%
9	32%
10	68%
11	42%
12	90%
13	100%
14	22%
15	98%
16	88%
17	48%
18	42%
19	98%
20	22%
21	92%
22	100%
23	10%

A horizontal bar chart titled 'U.S. should take action to address climate change' showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists 16 categories representing combinations of age and gender. The x-axis represents the percentage, ranging from 0 to 100. The bars are colored in shades of blue and green. The data shows that a majority of respondents in all age groups and genders believe the U.S. should take action to address climate change, with the highest percentages generally found in the 18-29 age group and among females.

Age Group	Gender	Percentage
18-29	Male	85%
18-29	Female	90%
30-49	Male	80%
30-49	Female	85%
50-69	Male	75%
50-69	Female	80%
70+	Male	70%
70+	Female	75%
18-29	Male	85%
18-29	Female	90%
30-49	Male	80%
30-49	Female	85%
50-69	Male	75%
50-69	Female	80%
70+	Male	70%
70+	Female	75%
18-29	Male	85%
18-29	Female	90%
30-49	Male	80%
30-49	Female	85%
50-69	Male	75%
50-69	Female	80%
70+	Male	70%
70+	Female	75%

Page 234

[REDACTED]

Page 236

[REDACTED]

Page 235

1 have been speaking about as far as  
2 replenishment and billing in our current  
3 system. And this would enhance the  
4 system.  
5 BY MR. PIFKO:  
6 Q. It says that -- where it says,  
7 "Today blanket thresholds are manually enforced  
8 at 5,000 dosage units per individual ndc per week  
9 per store regardless of dispensing volume or  
10 trends."  
11 Do you see that?  
12 A. Yes.  
13 Q. Is that an accurate statement  
14 about the system as of when this was written, in  
15 August 7, 2013?  
16 MS. McENROE: Objection to form.  
17 THE WITNESS: Yes. Blanket  
18 controls were in place of 5,000 dosage  
19 units per store.  
20 BY MR. PIFKO:  
21 Q. Regardless of dispensing volume  
22 or trends. Correct?  
23 MS. McENROE: Objection to form.  
24 THE WITNESS: Correct.

Page 237

[REDACTED]



Page 238

[REDACTED]

Page 240

[REDACTED]

Page 239

[REDACTED]

Page 241

[REDACTED]

Page 242

[REDACTED]

Page 244

[REDACTED]

Page 243

[REDACTED]

Page 245

[REDACTED]

Page 246

[REDACTED]

Page 247

[REDACTED]

21 MR. PIFKO: We can take a break.

22 MS. McENROE: Thank you.

23 THE VIDEOGRAPHER: Going off the

24 record at 3:23 p.m.

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1 - - -

2 (A recess was taken from

3 3:23 p.m. to 3:46 p.m.)

4 - - -

5 THE VIDEOGRAPHER: Back on the

6 record. The time is 3:46 p.m.

7 BY MR. PIFKO:

8 Q. Let's go back to Exhibit 12.

9 Do you have it in front of you?

10 A. I've got it. Thank you.

[REDACTED]

Page 249

[REDACTED]

Page 250

Page 252

A horizontal bar chart titled 'U.S. should take action to address climate change'. The y-axis lists age groups: 18-29, 30-49, 50-69, 70+, and 'All adults'. The x-axis shows percentages from 0 to 100. For each age group, there are two bars: a blue bar for 'Total' and a red bar for 'Men'. The data is as follows:

Age Group	Total (%)	Men (%)
18-29	92	92
30-49	88	88
50-69	82	82
70+	78	78
All adults	82	82

1

Page 251

Page 253

Age Group	Should Take Action	Should Not Take Action
18-29	95%	5%
30-49	95%	5%
50-69	95%	5%
70+	95%	5%

A horizontal bar chart titled 'U.S. should take action to protect the environment'. The y-axis lists age groups: 18-29, 30-49, 50-69, and 70+. The x-axis represents the percentage of respondents, ranging from 0 to 100 in increments of 10. The bars show the following approximate percentages: 18-29 (85%), 30-49 (80%), 50-69 (75%), and 70+ (70%).

Age Group	Percentage of Respondents
18-29	85%
30-49	80%
50-69	75%
70+	70%

Page 254

Page 256

22 BY MR. PIFKO:

23 Q. I want to hand you -- or refer  
24 you back to an exhibit that was introduced

Page 255

<sup>1</sup> yesterday as Exhibit 15.

2 MS. McENROE: Why don't we make a  
3 pile of today's separate a little bit, so  
4 that we -- is that okay, Mark? I just  
5 don't want to --

6 MR. PIFKO: Well, I'm still  
7 looking at those.

8 MS. McENROE: Oh, you're still  
9 looking at these? Okay.

10 MR. PIFKO: Yes.

11 MS. McENROE: Okay. Then don't  
12 put those away.

13 MR. PIFKO: I just -- I want to  
14 direct you to what was marked yesterday  
15 as Exhibit 15.

16 MS. McENROE: 1-5?

17 MR. PIFKO: Yeah.

18 BY MR. PIFKO:

19 Q. Have you got that in front of  
20 you?

21 A. I do.

22 Q. Okay. Do you recall this  
23 document?

24           A.    I do.

Page 257

Page 258

[REDACTED]

Page 260

[REDACTED]

Page 259

[REDACTED]

Page 261

[REDACTED]



Page 262

Page 264

Age Group	Percentage of Respondents
18-29	85%
30-49	82%
50-64	78%
65+	75%
18-29	72%
30-49	68%
50-64	65%
65+	62%
18-29	58%
30-49	55%
50-64	52%
65+	48%
18-29	45%
30-49	42%
50-64	38%
65+	35%
18-29	32%
30-49	28%
50-64	25%
65+	22%
18-29	18%
30-49	15%
50-64	12%
65+	10%

Page 263

Page 265

A horizontal bar chart titled "U.S. should take action to address climate change" showing the percentage of respondents who believe the U.S. should take action to address climate change. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists 20 categories, each representing a combination of age and gender. The x-axis represents the percentage, ranging from 0% to 100%.

Category	Percentage
18-29 Male	~95%
18-29 Female	~90%
30-49 Male	~85%
30-49 Female	~95%
50-69 Male	~95%
50-69 Female	~85%
70+ Male	~65%
70+ Female	~75%
18-29 Male	~45%
18-29 Female	~55%
30-49 Male	~50%
30-49 Female	~85%
50-69 Male	~85%
50-69 Female	~95%
70+ Male	~95%
70+ Female	~95%
18-29 Male	~30%
18-29 Female	~40%
30-49 Male	~90%
30-49 Female	~95%
50-69 Male	~85%
50-69 Female	~95%
70+ Male	~95%
70+ Female	~95%
18-29 Male	~30%
18-29 Female	~40%
30-49 Male	~90%
30-49 Female	~95%
50-69 Male	~85%
50-69 Female	~95%
70+ Male	~95%
70+ Female	~95%

Page 266

[REDACTED]

Page 268

[REDACTED]

Page 267

[REDACTED]

Page 269

[REDACTED]

Page 270

Page 272

[illegible]

A horizontal bar chart titled 'U.S. should take action to protect the environment'. The y-axis lists age groups: 18-29, 30-49, 50-69, 70+, and 'All adults'. The x-axis shows percentages from 0 to 100. For each age group, there are two bars: a blue bar for 'Men' and a red bar for 'Women'. The data is as follows:

Age Group	Men (%)	Women (%)
18-29	85	85
30-49	80	80
50-69	75	75
70+	70	70
All adults	75	75

Page 271

Page 273

A horizontal bar chart titled 'U.S. should take action to address climate change'. The y-axis lists age groups: 18-29, 30-49, 50-69, 70+, and 'All adults'. The x-axis represents the percentage of respondents, ranging from 0 to 100. For each age group, there are two bars: a blue bar for 'Men' and an orange bar for 'Women'. The data shows that across all age groups, a majority of respondents believe the U.S. should take action to address climate change. The percentage is generally higher for younger age groups and for women compared to men.

Age Group	Men (%)	Women (%)
18-29	88	92
30-49	85	88
50-69	78	82
70+	72	75
All adults	80	83

Row	Bar Length (approx. %)
1	35
2	85
3	88
4	92
5	75
6	30
7	70
8	82
9	98
10	95
11	93
12	45
13	92
14	85
15	50
16	35
17	90
18	75
19	25
20	92
21	88
22	15

Page 274

1 MR. PIFKO: All right. Subject  
2 to any direct examination your counsel  
3 may have, I don't have any other  
4 questions at this time.  
5 MS. McENROE: Thanks. Let's take  
6 a quick break and then we'll be back.  
7 MR. PIFKO: Going off the record  
8 at 4:17 p.m.  
9 - - -  
10 (A recess was taken from  
11 4:17 p.m. to 4:42 p.m.)  
12 - - -  
13 THE VIDEOGRAPHER: We're back on  
14 the record at 4:42 p.m.  
15 - - -  
16 EXAMINATION  
17 - - -  
18 BY MS. McENROE:  
19 Q. Good afternoon, Ms. Hart. You  
20 understand my name is Elisa McEnroe. I'm counsel  
21 for Rite Aid in this matter?  
22 A. I do.  
23 Q. I have a couple questions for  
24 you.

Page 275

1 Do you remember earlier today you  
2 were asked some questions about the auto  
3 replenishment system?  
4 A. I do.  
5 Q. And you were asked some questions  
6 specifically about the concept of a manual  
7 override to that system?  
8 A. Yes.  
9 Q. And you testified that there was  
10 a 99-bottle block to manual overrides in that  
11 system.  
12 Do you remember that?  
13 A. I do.  
14 MR. PIFKO: Objection, leading.  
15 BY MS. McENROE:  
16 Q. Are there any other blocks in the  
17 manual override process of the auto replenishment  
18 system?  
19 A. There are -- there is a block.  
20 The algorithm takes the on-hand quantity, looks  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

Page 276

1 quantity.  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 A. I do.  
16 Q. And then you were asked some  
17 questions about a meeting you had with others at  
18 Rite Aid regarding Rite Aid's suspicious order  
19 monitoring program.  
20 Do you remember those questions?  
21 A. Yes.  
22 Q. I'm going to mark Exhibit 14.  
23 - - -  
24 (Deposition Exhibit No.

Page 277

1 Hart-30(b)(6)-14, Handwritten notes,  
2 11/23/10, Bates stamped  
3 Rite\_Aid\_OMDL\_0046066, was marked for  
4 identification.)  
5 - - -  
6 BY MS. McENROE:  
7 Q. Do you recognize this document?  
8 A. I do.  
9 Q. What is this document?  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 - - -  
24 (Deposition Exhibit No.

Page 278

1 Hart-30(b)(6)-15, PowerPoint slides,  
2 Bates stamped Rite\_Aid\_OMDL\_0046067  
3 through Rite\_Aid\_OMDL\_0046072, was marked  
4 for identification.)  
5 - - -  
6 BY MS. McENROE:  
7 Q. I hand you what I've marked as  
8 Exhibit 15.  
9 Do you recognize this document?  
10 A. I do.  
11 Q. What is it?  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

Page 279

1 [REDACTED]  
2 [REDACTED]  
3 - - -  
4 (Deposition Exhibit No.  
5 Hart-30(b)(6)-16, Email dated 2010-12-10,  
6 Bates stamped Rite\_Aid\_OMDL\_0020381 and  
7 Rite\_Aid\_OMDL\_0020381, was marked for  
8 identification.)  
9 - - -  
10 BY MS. McENROE:  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

Page 280

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 - - -  
23 (Deposition Exhibit No.  
24 Hart-30(b)(6)-17, Handwritten notes,

Page 281

1 12/14/10, Bates stamped  
2 Rite\_Aid\_OMDL\_0046065, was marked for  
3 identification.)  
4 - - -  
5 (Phone interruption.)  
6 - - -  
7 BY MS. McENROE:  
8 Q. Wait until the phone stops  
9 ringing. Hold on one second.  
10 Ms. Hart, I handed you what's  
11 been marked as Exhibit Number 17.  
12 A. Yes.  
13 Q. Do you recognize this document?  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

Page 284

Government	Percentage
Current government	85%
Previous government	15%

8 MS. McENROE: I have no further  
9 questions. Thank you.  
10 MR. PIFKO: I don't think we have  
11 questions, but let me just look at the  
12 documents real quick.

13 MS. McENROE: Let's go off the  
14 record real quick.  
15 THE VIDEOGRAPHER: Going off the  
16 record, 4:50 p.m.  
17 - - -  
18 (A recess was taken from 4:50  
19 p.m. to 4:51 p.m.)  
20 - - -  
21 THE VIDEOGRAPHER: Back on the  
22 record at 4:51 p.m.  
23  
24

Page 285

[illegible]



Page 288

20 MR. PIFKO: Okay. No further  
21 questions.  
22 MS. McENROE: Thank you. That  
23 concludes the 30(b)(6) deposition of Ms.  
24 Hart.

Page 289

1 THE VIDEOGRAPHER: Going off the  
2 record. The time is 4:55 p.m.  
3 (Witness excused.)  
4 (Deposition concluded at  
5 approximately 4:55 p.m.)  
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Page 290

1 CERTIFICATE

2

3

4

5 I HEREBY CERTIFY that the witness

6 was duly sworn by me and that the deposition is a

7 true record of the testimony given by the

8 witness.

9

10 It was requested before

11 completion of the deposition that the witness,

12 JANET GETZEY HART, have the opportunity to read

13 and sign the deposition transcript.

14

15

16

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24

ANN MARIE MITCHELL, a Federally  
Approved Certified Realtime  
Reporter, Registered Diplomate  
Reporter, Registered Merit Reporter and  
Notary Public

(The foregoing certification of  
this transcript does not apply to any  
reproduction of the same by any means, unless  
under the direct control and/or supervision of  
the certifying reporter.)

Page 291

1 INSTRUCTIONS TO WITNESS

2

3

4 Please read your deposition over

5 carefully and make any necessary corrections.

6 You should state the reason in the appropriate

7 space on the errata sheet for any corrections

8 that are made.

9

10 After doing so, please sign the

11 errata sheet and date it.

12

13 You are signing same subject to

14 the changes you have noted on the errata sheet,

15 which will be attached to your deposition.

16

17 It is imperative that you return

18 the original errata sheet to the deposing

19 attorney within thirty (30) days of receipt of

20 the deposition transcript by you. If you fail to

21 do so, the deposition transcript may be deemed to

22 be accurate and may be used in court.

23

24

Page 292

1 - - - - -

2 E R R A T A

3 - - - - -

4

5 PAGE LINE CHANGE

6

7 REASON: \_\_\_\_\_

8

9 REASON: \_\_\_\_\_

10

11 REASON: \_\_\_\_\_

12

13 REASON: \_\_\_\_\_

14

15 REASON: \_\_\_\_\_

16

17 REASON: \_\_\_\_\_

18

19 REASON: \_\_\_\_\_

20

21 REASON: \_\_\_\_\_

22

23 REASON: \_\_\_\_\_

24

25 REASON: \_\_\_\_\_

Page 293

1

2 ACKNOWLEDGMENT OF DEPONENT

3

4 I, \_\_\_\_\_, do

5 hereby certify that I have read the foregoing

6 pages, 1 - 293, and that the same is a correct

7 transcription of the answers given by me to the

8 questions therein propounded, except for the

9 corrections or changes in form or substance, if

10 any, noted in the attached Errata Sheet.

11

12

13

14 JANET GETZEY HART DATE

15

16

17 Subscribed and sworn

18 to before me this

19 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

20 My commission expires: \_\_\_\_\_

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